

SHERRI ZGABAY

6/9/2014

1 (Pages 1 to 4)

<p style="text-align: right;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS 2 CORPUS CHRISTI DIVISION 3 MARC VEASEY, et al., ) Plaintiffs, ) 4 ) v. ) Civil Action 5 ) No. 2:13-cv-193(NGR) 6 RICK PERRY, et al., ) Defendants. ) 7 ) UNITED STATES OF AMERICA, ) 8 Plaintiff, ) 9 ) TEXAS LEAGUE OF YOUNG ) VOTERS EDUCATION FUND, ) 10 et al., ) 11 ) Plaintiff- ) Civil Action Intervenors, ) No. 2:13-cv-263(NGR) 12 ) TEXAS ASSOCIATION OF ) HISPANIC COUNTY JUDGES AND ) 13 COUNTY COMMISSIONERS, ) et al., ) 14 ) Plaintiff- ) Intervenors, ) 15 ) v. ) 16 ) STATE OF TEXAS, et al., ) 17 Defendants. ) 18 ) 19 ***** 20 ORAL DEPOSITION OF 21 SHERRI ZGABAY 22 JUNE 9, 2014 23 ***** 24 ORAL DEPOSITION OF SHERRI ZGABAY, produced as a 25</p>	<p style="text-align: right;">3</p> <p>1 APPEARANCES 2 3 FOR PLAINTIFF UNITED STATES OF AMERICA: Ms. Jennifer L. Maranzano (By Telephone) 4 U.S. DEPARTMENT OF JUSTICE Civil Rights Division 5 950 Pennsylvania Avenue, NW NWB Room 7254 6 Washington, DC 20530 (202) 305-4355 jennifer.maranzano@usdoj.gov 7 8 FOR THE VEASEY PLAINTIFFS: 9 Mr. K. Scott Brazil BRAZIL &amp; DUNN, LLP 10 4201 Cypress Creek Parkway Suite 530 11 Houston, Texas 77068 (281) 380-6310 scott@brazilanddunn.com 12 13 FOR THE DEFENDANTS: 14 Mr. S. Ronald Keister OFFICE OF THE ATTORNEY GENERAL OF TEXAS 15 P.O. Box 12548 Austin, Texas 78711 (512) 463-2197 ronny.keister@oag.state.tx.us 16 17 ALSO PRESENT: 18 Ms. Kathleen T. Murphy-Darveau TEXAS DEPARTMENT OF PUBLIC SAFETY 19 5805 North Lamar Boulevard Austin, Texas 78752 20 (512) 424-2420 kathleen.murphy@dps.texas.gov 21 22 REPORTED BY: 23 Kim Seibert, CSR, RPR U.S. Legal Support, Inc. 24 Austin Centre 701 Brazos, Suite 380 25 Austin, Texas 78701</p>
<p style="text-align: right;">2</p> <p>1 witness at the instance of Plaintiffs, and duly sworn, 2 was taken in the above-styled and numbered cause on 3 June 9, 2014, from 1:03 p.m. to 2:21 p.m. before 4 Kim Seibert, CSR in and for the State of Texas, 5 reported by machine shorthand, at the law offices of 6 DECHERT LLP, 300 West Sixth Street, Suite 2010, Austin, 7 Texas, pursuant to the Federal Rules of Civil Procedure 8 and/or the provisions stated on the record or attached 9 hereto. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">4</p> <p>1 INDEX 2 Appearances..... 3 4 SHERRI ZGABAY 5 Examination by Mr. Brazil..... 5 6 Examination by Ms. Maranzano..... 43 7 Witness' Signature Page..... 55 8 Reporter's Certificate..... 57 9 10 EXHIBITS 11 NUMBER DESCRIPTION PAGE 12 Exhibit 142 ..... 33 Fee Table 13 Exhibit 143 ..... 34 First Page of On-Line Application 14 Exhibit 144 ..... 36 Continuation of Introduction for On-Line Application Process 15 Exhibit 145 ..... 42 Application from Website 16 Exhibit 146 ..... 37 Instructions for Law Enforcement Officer Submitting Documentation Asking to 17 Initiate Revocation Action Because Individual No Longer Meets the Criteria to 20 Hold a Concealed Handgun License 21 Exhibit 147 ..... 40 House Bill 698 22 23 24 25</p>

SHERRI ZGABAY

6/9/2014

2 (Pages 5 to 8)

<p style="text-align: right;">5</p> <p>1 (Exhibit Nos. 142 through 147 marked.)</p> <p>2 SHERRI ZGABAY,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. BRAZIL:</p> <p>6 Q. Good afternoon.</p> <p>7 A. Hello.</p> <p>8 Q. Would you state your full name, please.</p> <p>9 A. My name is Sherri Zgabay.</p> <p>10 Q. Would you spell your last name?</p> <p>11 A. Z-g-a-b-a-y.</p> <p>12 Q. Have you ever given your deposition before?</p> <p>13 A. I have given one deposition in my lifetime.</p> <p>14 Q. So you understand the nature of this</p> <p>15 proceeding?</p> <p>16 A. Yes, I do.</p> <p>17 Q. All right. Just a couple of rules. I'll</p> <p>18 remind you throughout the process if -- let me finish</p> <p>19 my question before you give an answer. That way the</p> <p>20 court reporter can take down a full question and a full</p> <p>21 answer. And say "yes" or "no" or give verbal responses</p> <p>22 rather than a nod of the head. Fair enough?</p> <p>23 A. Fair enough.</p> <p>24 Q. If you do not understand one of my questions</p> <p>25 for any reason, just say, "Scott, stop, back up,</p>	<p style="text-align: right;">7</p> <p>1 Q. I'm sorry?</p> <p>2 A. Ignition interlock. We also have controlled</p> <p>3 substances, capitol access pass, metals registration.</p> <p>4 Q. What was the last one?</p> <p>5 A. Metals registration.</p> <p>6 Q. Metal?</p> <p>7 A. Metals.</p> <p>8 Q. You have to explain that one.</p> <p>9 A. Metals registration are companies that</p> <p>10 purchase recycled metal, and they must be licensed by</p> <p>11 the State of Texas to do so.</p> <p>12 Q. Okay. And capitol access, I assume you mean</p> <p>13 access to the capitol?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Certain restricted areas?</p> <p>16 A. It's not a restricted area. Capitol access is</p> <p>17 a program specifically designated by statute that</p> <p>18 allows individuals to go through a particular line at</p> <p>19 the capitol. They have the same access that any other</p> <p>20 customer has; they just have a different entrance line.</p> <p>21 Q. And why would they apply for that type of</p> <p>22 license? What benefit do they receive?</p> <p>23 A. The benefit is, you do not have to go through</p> <p>24 the same longer lines that have metal detectors.</p> <p>25 Q. You skip some of the security?</p>
<p style="text-align: right;">6</p> <p>1 rephrase," whatever. Fair enough?</p> <p>2 A. Fair enough.</p> <p>3 Q. How are you currently employed?</p> <p>4 A. I am the manager with the licensing and</p> <p>5 registration service with the Texas Department of</p> <p>6 Public Safety.</p> <p>7 Q. How long have you held that position?</p> <p>8 A. I have been in this particular position since</p> <p>9 August of 2010 -- July of 2010. Excuse me.</p> <p>10 Q. And before that, how were you employed?</p> <p>11 A. I began working at the Department of Public</p> <p>12 Safety in July of 1987.</p> <p>13 Q. Have you always been in that area or that</p> <p>14 division?</p> <p>15 A. No, sir. I've worked in a number of different</p> <p>16 positions within the department.</p> <p>17 Q. Okay. What do you currently do in your</p> <p>18 current position?</p> <p>19 A. In my current position, I am the manager for</p> <p>20 the licensing area. Our responsibilities are to</p> <p>21 process all incoming applications for various different</p> <p>22 types of licensure that the department regulates.</p> <p>23 Q. Such as? What are some of those?</p> <p>24 A. Concealed handgun is one, private security,</p> <p>25 ignition interlock.</p>	<p style="text-align: right;">8</p> <p>1 A. Well, your security is done in advance.</p> <p>2 Q. Okay. Controlled substance license, that's</p> <p>3 someone who handles controlled substances, --</p> <p>4 A. Those are --</p> <p>5 Q. -- like a pharmacy?</p> <p>6 A. Yes, sir. Pharmacies, physicians,</p> <p>7 veterinarians, anyone that is going to dispense,</p> <p>8 distribute, manufacture, or write prescriptions for</p> <p>9 controlled substances.</p> <p>10 Q. Ignition interlock?</p> <p>11 A. Ignition --</p> <p>12 Q. Why would someone need a license for one of</p> <p>13 those?</p> <p>14 A. Well, our role is to actually certify or</p> <p>15 authorize the service center or the vendor that</p> <p>16 installs the ignition interlock device.</p> <p>17 Q. So if a court orders someone to have that</p> <p>18 installed on their car as a result of a DWI, DPS</p> <p>19 licenses the company that would install that device?</p> <p>20 A. We license the vendor that would install that</p> <p>21 device, the facility.</p> <p>22 Q. Okay. And private security would be -- is</p> <p>23 that the same as a private investigator's license?</p> <p>24 A. It would include private investigator,</p> <p>25 commissioned/noncommissioned guards, alarm installers,</p>

SHERRI ZGABAY

6/9/2014

3 (Pages 9 to 12)

<p style="text-align: right;">9</p> <p>1 locksmiths. There's a myriad of professionals in that  2 particular industry that must be licensed.  3 Q. Okay. And then the other area was, obviously,  4 concealed handgun?  5 A. Yes, sir.  6 Q. All right. Do the other areas that we just  7 spoke of, capitol access and metal -- metal regulation,  8 do they -- does the DPS issue photo IDs to those  9 entities or those persons?  10 A. The other programs that I mentioned do not  11 have photo identification cards of any sort issued.  12 They're issued a certificate, say, paper form without a  13 photo to conduct business, with the exception of  14 private security.  15 Q. Okay. I was just about -- and the private  16 security area, they do receive a photo -- photo  17 identification type card?  18 A. They receive a card. It's referenced as a  19 pocket card, and it is used in a limited capacity. It  20 does have the photo on it, produced on the actual  21 laminated card.  22 Q. To your knowledge, can they use that as a  23 photo ID to vote?  24 A. I am not aware that that can be used as an  25 identification document for voting.</p>	<p style="text-align: right;">11</p> <p>1 A. No, sir.  2 Q. If I'm a resident of Louisiana, what would the  3 application process be like for me? What additional  4 information would be required?  5 A. The application process for a -- an  6 out-of-state resident is very similar to the  7 application process for a resident of Texas.  8 Out-of-state applicants will be asked to provide a copy  9 of their out-of-state DAR license or identification as  10 well as two passport-style photos to use for the  11 production of the actual card.  12 Q. Okay. And they will also be required to  13 submit fingerprints?  14 A. Yes, sir. They must still submit the  15 fingerprints, applicable fees, and any applicable  16 supporting documents.  17 Q. And those -- and they will undergo a  18 background check as well?  19 A. Correct, yes, sir.  20 Q. Okay. Does Texas have a reciprocity with  21 other states?  22 A. We do have reciprocity with other states.  23 Q. If I -- can you just name one state that we  24 do?  25 A. Certainly. New Mexico.</p>
<p style="text-align: right;">10</p> <p>1 Q. Can they board a plane using that ID?  2 A. I do not know if they can use that to board a  3 plane.  4 Q. Okay. All right. Let's talk about the  5 concealed handgun process in Texas. What is, just  6 generally, the application process to obtain a  7 concealed handgun license in Texas?  8 A. The application process allows individuals to  9 submit an application either on-line or a paper  10 application that can be mailed or delivered to the  11 department headquarters in Austin. There is a fee  12 associated with the application. Each individual must  13 provide different forms of documents depending on their  14 particular situation or scenario. And in some cases  15 they are required to provide proof that they have  16 attended a training class.  17 Q. Okay. Are fingerprints required?  18 A. Yes, sir. That is additionally part of the  19 application process. The department -- upon receipt of  20 the application, we will conduct a full background  21 check on the individuals. They must submit electronic  22 fingerprints as a condition or part of the application  23 process.  24 Q. Do you have to be a Texas resident to receive  25 a Texas CHL?</p>	<p style="text-align: right;">12</p> <p>1 Q. Okay. If I hold a CHL from New Mexico, can I  2 also apply for a CHL in Texas?  3 A. Yes.  4 Q. And is there any difference in the application  5 process since I already hold one from a -- from  6 New Mexico?  7 A. No, sir, there is no difference in the  8 application process based on whether or not the  9 individual currently holds a concealed handgun license  10 from another state.  11 Q. All right. So it's the same?  12 A. Exactly the same.  13 Q. Okay. But the reciprocity just allows me to  14 carry a concealed handgun in Texas using the New Mexico  15 concealed handgun license?  16 A. Yes.  17 Q. Okay. Do I have to do a -- go through a  18 registration process in Texas? If I -- if I move to  19 Texas from New Mexico and I have the CHL from  20 New Mexico, do I need to do something to transfer that  21 to Texas?  22 A. No, sir.  23 Q. Okay. So when it expires in New Mexico, then  24 it expires period?  25 A. Correct.</p>

SHERRI ZGABAY

6/9/2014

4 (Pages 13 to 16)

<p style="text-align: right;">13</p> <p>1 Q. Okay. Do you have to be a US citizen to get a</p> <p>2 concealed handgun license in Texas?</p> <p>3 A. No, sir, you do not.</p> <p>4 Q. So there's no requirement that I submit proof</p> <p>5 of US citizenship to get a CHL?</p> <p>6 A. We do require the individual to provide either</p> <p>7 proof of citizenship or proof that the individual is</p> <p>8 legally in this country.</p> <p>9 Q. Okay. So you either have to be a US citizen</p> <p>10 or you have to be here legally to obtain a CHL in</p> <p>11 Texas?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. And what proof or documents would I</p> <p>14 need to show the DPS to meet those requirements or to</p> <p>15 meet that requirement?</p> <p>16 A. The application asks that the individual</p> <p>17 provide us with information about their country of</p> <p>18 birth. And if the individual indicates that they were</p> <p>19 born -- a US-born citizen we do not ask for any</p> <p>20 additional documentation.</p> <p>21 Q. Okay. So if I complete a CHL today in June</p> <p>22 of 2014, a CHL application, and I check that I am a</p> <p>23 US-born citizen, no additional information is required?</p> <p>24 A. If you indicate that you were born in the</p> <p>25 United States by listing your place of birth as being</p>	<p style="text-align: right;">15</p> <p>1 background information is generally obtained -- or not</p> <p>2 generally. It is obtained from various sources. So it</p> <p>3 would be dependent upon those sources, including some</p> <p>4 of the FBI records. And I can't really speak to what</p> <p>5 specifically would be contained in those.</p> <p>6 Q. Okay. That was my next question. Generally,</p> <p>7 what sources do -- does the DPS obtain their background</p> <p>8 check information?</p> <p>9 A. We have two primary sources, several</p> <p>10 secondary. But the two primary are the criminal</p> <p>11 history in Texas and the federal or FBI background</p> <p>12 check, which includes criminal history and other</p> <p>13 relevant information for the purchase, sale, possession</p> <p>14 of a firearm or ammunition under the Brady Act.</p> <p>15 Q. And you said there were some secondary</p> <p>16 sources?</p> <p>17 A. Well, the secondary sources would -- an</p> <p>18 example of that would be an individual in Texas must</p> <p>19 be -- cannot be delinquent -- finally delinquent in</p> <p>20 payment of child support. So that isn't a criminal act</p> <p>21 necessarily as far as a conviction, but there are some</p> <p>22 other types of things that are not related to criminal</p> <p>23 activities specifically that we're required to conduct</p> <p>24 background check on.</p> <p>25 Q. Okay. Other than child support, can you think</p>
<p style="text-align: right;">14</p> <p>1 in the US. We don't have a specific question asking if</p> <p>2 the individual is a US-born citizen. We are able to</p> <p>3 determine that by the place of birth.</p> <p>4 Q. Okay. So if I indicate a place of birth that</p> <p>5 indicates I'm a US citizen, no other information is</p> <p>6 required by DPS?</p> <p>7 A. That is correct.</p> <p>8 Q. What if I misrepresent that; I checked I was</p> <p>9 born in Boston or, you know, in Fayetteville, Arkansas?</p> <p>10 Do you do anything to verify that?</p> <p>11 A. Well, we conduct a complete background check,</p> <p>12 including a federal background check, and any</p> <p>13 misrepresentation or information that we determine on</p> <p>14 an applicant is fraudulent would be grounds for denial</p> <p>15 of that application.</p> <p>16 Q. Okay. So you do check to see if, in fact,</p> <p>17 that applicant is a US citizen by doing the background</p> <p>18 check?</p> <p>19 A. The background check may contain information</p> <p>20 that would indicate if the person is a US citizen or</p> <p>21 not.</p> <p>22 Q. Okay. Could the background check not indicate</p> <p>23 either way?</p> <p>24 A. I would have to think about that. I'm not</p> <p>25 certain that I can really answer that, because the</p>	<p style="text-align: right;">16</p> <p>1 of any others?</p> <p>2 A. Yes. Actually, individuals also must be</p> <p>3 qualified to safely possess or handle a firearm. And</p> <p>4 there are some specific psychiatric requirements,</p> <p>5 medical, those types of things.</p> <p>6 Q. Okay. Child support, medical. Any others</p> <p>7 that are noncriminal that you can think of?</p> <p>8 A. I can't think of any off the top of my head.</p> <p>9 Q. Fair enough. And the criminal history check</p> <p>10 for Texas, that's -- that's maintained by DPS?</p> <p>11 A. Yes, sir, it is.</p> <p>12 Q. Okay. And then you said there was a federal</p> <p>13 or the FBI criminal database?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. If someone were, let's say -- well,</p> <p>16 first of all, how old do you have to be in Texas to</p> <p>17 obtain a CHL?</p> <p>18 A. The law requires an individual to be at least</p> <p>19 21 years of age unless the individual meets the</p> <p>20 exceptions under military, which is 18.</p> <p>21 Q. Okay. Let's say someone applies at age 21 for</p> <p>22 a CHL in Texas and has never been in trouble in any</p> <p>23 state and you do a background check, would it indicate</p> <p>24 to you where that person was born, or do you know? If</p> <p>25 you don't know, just say you don't know.</p>

SHERRI ZGABAY

6/9/2014

5 (Pages 17 to 20)

<p style="text-align: right;">17</p> <p>1 A. I don't know.</p> <p>2 Q. Okay.</p> <p>3 A. In thinking about it, I don't know.</p> <p>4 Q. Okay. So I -- you do not need a Texas</p> <p>5 driver's license to apply for a Texas CHL?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. And there is no specific requirement</p> <p>8 that I or that someone applying for a CHL provide a</p> <p>9 birth -- certified copy of their birth certificate or</p> <p>10 passport, anything of that sort?</p> <p>11 A. I'm sorry. Restate that question one more</p> <p>12 time, please.</p> <p>13 Q. Sure. When someone applies for a CHL in</p> <p>14 Texas, there's no requirement by DPS that they provide</p> <p>15 a certified copy of their birth certificate or a copy</p> <p>16 of their passport, anything of that sort?</p> <p>17 A. There are circumstances where we would ask for</p> <p>18 those types of documents. It is truly specific to each</p> <p>19 individual and what types of information they provided</p> <p>20 on the application. And in the course of the</p> <p>21 background check we may be required -- it may be</p> <p>22 necessary to obtain additional information. So I can't</p> <p>23 say absolutely, no, we would never ask for those</p> <p>24 things. But those are not items that we would ask for</p> <p>25 in the normal course of an application.</p>	<p style="text-align: right;">19</p> <p>1 A. Sure.</p> <p>2 Q. So in Texas you can obtain a CHL without being</p> <p>3 a US citizen and without being a legal resident?</p> <p>4 A. You do not have to be a legal resident. You</p> <p>5 just must be legally in this country. You could be a</p> <p>6 legal visitor.</p> <p>7 Q. Of some sort?</p> <p>8 A. Of -- correct.</p> <p>9 Q. Okay. And how long is a CHL? What's the</p> <p>10 term, four years?</p> <p>11 A. It is four years for the initial CHL, and then</p> <p>12 it becomes a five-year renewal cycle after that.</p> <p>13 Q. Okay. Is the renewal -- can that be done</p> <p>14 on-line?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Is there a time period or a renewal that has</p> <p>17 to be done in person?</p> <p>18 A. There is no renewal that has to be conducted</p> <p>19 in person. The first part of your question, I believe,</p> <p>20 was a timeframe?</p> <p>21 Q. Yes. For example, for a driver's license you</p> <p>22 have to go in every so many renewals. I don't remember</p> <p>23 how many. Is it the same for CHL, or can you just</p> <p>24 continue to renew on-line?</p> <p>25 A. No, you can continue to renew on-line.</p>
<p style="text-align: right;">18</p> <p>1 Q. All right. If I am a temporary resident, like</p> <p>2 I'm a student here on a student visa or something, can</p> <p>3 I obtain a CHL?</p> <p>4 A. The individual may obtain a CHL if they are a</p> <p>5 temporary -- as you stated, such as a student, provided</p> <p>6 that they meet the qualifications to possess a firearm.</p> <p>7 They must be federally qualified to possess a firearm.</p> <p>8 Q. If I am a nonresident, noncitizen, can I apply</p> <p>9 for a CHL?</p> <p>10 A. Let me say this. Nonresident, noncitizen?</p> <p>11 Q. Right. I'm not a resident of Texas. I'm not</p> <p>12 a US citizen. Can I apply for a CHL?</p> <p>13 A. Yes, provided that the person meets all of the</p> <p>14 background requirements, including federally qualified</p> <p>15 to possess a firearm.</p> <p>16 Q. But what if I'm not born in the United States?</p> <p>17 Can I still possess a -- or obtain a CHL?</p> <p>18 A. Yes, provided they meet the requirements for</p> <p>19 possessing a firearm. You must be federally qualified</p> <p>20 to possess the firearm.</p> <p>21 Q. Okay. And being federally qualified means I</p> <p>22 have to be a US citizen or a legal resident?</p> <p>23 A. No.</p> <p>24 Q. Okay. So just so I'm clear -- I want to move</p> <p>25 on.</p>	<p style="text-align: right;">20</p> <p>1 Q. When you first obtain a CHL, it's four years;</p> <p>2 after that, it's five-year renewals?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Is there only one type of CHL for the</p> <p>5 public?</p> <p>6 A. You may have to clarify. What do you mean by</p> <p>7 that?</p> <p>8 Q. Well, I understand you can qualify with an</p> <p>9 automatic or with a revolver. But other than that, is</p> <p>10 a CHL for a member of the public -- there's just one</p> <p>11 type?</p> <p>12 A. There is only one type of concealed handgun</p> <p>13 license.</p> <p>14 Q. All right. Is the one that's issued for the</p> <p>15 private investigators and the private security, is it</p> <p>16 the same as the CHL that a member of the public would</p> <p>17 carry?</p> <p>18 A. No. No.</p> <p>19 Q. All right. Because their -- their license</p> <p>20 allows them to display the weapon, I assume?</p> <p>21 A. Under the Private Security Act versus</p> <p>22 concealed handgun, there are some commissioned -- as</p> <p>23 defined in statute, commissioned private security</p> <p>24 pocket cards or registrations, as you would call them.</p> <p>25 And those allow those individuals to carry some</p>



SHERRI ZGABAY

6/9/2014

6 (Pages 21 to 24)

<p style="text-align: right;">21</p> <p>1 concealed, some not concealed, but in a different</p> <p>2 manner and completely different laws for those</p> <p>3 individuals versus the laws specific for concealed</p> <p>4 carry.</p> <p>5 Q. Okay. But the member of the public that</p> <p>6 receives a concealed handgun license, the only</p> <p>7 difference would be either revolver or -- I forget how</p> <p>8 it's designated; all types. I don't remember.</p> <p>9 A. Well, that used to be the case, yes, sir.</p> <p>10 But --</p> <p>11 Q. Has that changed?</p> <p>12 A. That did change in June of 2013. New</p> <p>13 legislation passed that category or weapon type is --</p> <p>14 you're referring to semi-auto or non-semi-auto, also</p> <p>15 known as revolver, is no longer applicable.</p> <p>16 Q. So once you qualify, you qualify?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. So before that, you had to -- if you</p> <p>19 qualified with a revolver, that's all you could carry.</p> <p>20 You're saying now you can qualify with either an</p> <p>21 automatic or a semiautomatic or a revolver and carry</p> <p>22 either?</p> <p>23 A. That's correct.</p> <p>24 Q. Who maintains the database for all the CHLs in</p> <p>25 Texas? Is that DPS?</p>	<p style="text-align: right;">23</p> <p>1 Q. Is that database searchable?</p> <p>2 A. The database is searchable for certain</p> <p>3 criteria for some things.</p> <p>4 Q. Can you search it by age, race? What are the</p> <p>5 categories or what are the search areas?</p> <p>6 A. There are a few that are statutorily mandated,</p> <p>7 such as those that you spoke to. There are statistical</p> <p>8 reports available that we produce as part of a</p> <p>9 statutory requirement. Age, county, zip code, sex,</p> <p>10 and, I believe, race. There are four reports to --</p> <p>11 four different reports that we produce and one of them</p> <p>12 a dual category.</p> <p>13 Q. And who is that report -- or who are those</p> <p>14 reports produced for or to?</p> <p>15 A. They're made available for the general public</p> <p>16 on-line.</p> <p>17 Q. What are the circumstances under which a CHL</p> <p>18 will be suspended or revoked?</p> <p>19 A. Certainly. There are a number of different</p> <p>20 circumstances that could apply for suspension or</p> <p>21 revocation. Suspension is generally the first type of</p> <p>22 enforcement action -- administrative enforcement action</p> <p>23 the department would take. And those are based upon</p> <p>24 notification that the individual meets a specific</p> <p>25 criteria outlined by statute that meets the</p>
<p style="text-align: right;">22</p> <p>1 A. The department maintains that database, yes,</p> <p>2 sir.</p> <p>3 Q. Is that a separate database, separate and</p> <p>4 apart from the driver's license database?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Okay. And do you currently know approximately</p> <p>7 how many individuals hold a Texas CHL?</p> <p>8 A. There are just over 750,000 active. I don't</p> <p>9 have the specific number off the top of my head, but</p> <p>10 it's been just over 756,000, I believe, and some change</p> <p>11 in the last couple of weeks.</p> <p>12 Q. Okay. And how many of those approximately</p> <p>13 750,000 individuals hold a Texas driver's license?</p> <p>14 A. I do not know those numbers.</p> <p>15 Q. How many of them are non-Texas residents?</p> <p>16 A. I also do not know how many are non-Texas</p> <p>17 residents.</p> <p>18 Q. How many of them are here in the United States</p> <p>19 legally?</p> <p>20 A. I'm sorry. Repeat that one more time.</p> <p>21 Q. How many of those or what percentage of those</p> <p>22 are here in the United States under some kind of, you</p> <p>23 know, work visa or student visa, something like that;</p> <p>24 do you know?</p> <p>25 A. I don't have those, no, sir.</p>	<p style="text-align: right;">24</p> <p>1 qualification or the criteria to be suspended.</p> <p>2 An example of that would be DWI. If a</p> <p>3 person were arrested and charged with a Class B</p> <p>4 misdemeanor such as a DWI, then that would --</p> <p>5 individual would be subject for a suspension of their</p> <p>6 concealed handgun license.</p> <p>7 Q. They would -- would they be sent a letter that</p> <p>8 says your license is suspended or will be suspended in</p> <p>9 X number of days?</p> <p>10 A. Yes, sir. Standard rules, civil practice, I</p> <p>11 believe, is the reference to it, are applied. We are</p> <p>12 required statutorily to submit written notice to the</p> <p>13 individual advising that suspension action is being</p> <p>14 initiated. The individual has the opportunity to</p> <p>15 request an administrative hearing within, of course, a</p> <p>16 certain timeframe. And those hearings are held before</p> <p>17 a justice of the peace court in the county where the</p> <p>18 person resides.</p> <p>19 Q. And that's under the suspension category?</p> <p>20 A. Correct.</p> <p>21 Q. What other types of activities would result in</p> <p>22 a suspension?</p> <p>23 A. Suspension -- to be quite honest, off the top</p> <p>24 of my head, the ones that come to mind the most are</p> <p>25 those that are charged with a particular offense.</p>

SHERRI ZGABAY

6/9/2014

7 (Pages 25 to 28)

<p style="text-align: right;">25</p> <p>1 <b>There are a few others. I cannot call them off the top</b>  2 <b>of my head specifically of the exact reasons.</b>  3 Q. What about delinquent child support?  4 <b>A. Delinquent child support would fall, I</b>  5 <b>believe, more in the category of revocation. The</b>  6 <b>suspension and revocation are very close to the same,</b>  7 <b>so -- I don't want to speak out of turn without the</b>  8 <b>statute in front of me to refresh my memory on which</b>  9 <b>specific one falls in which category. The difference</b>  10 <b>between the two are generally the suspension has a</b>  11 <b>specific timeframe, and the revocation may not,</b>  12 <b>depending on how long that -- or I have it backwards.</b>  13 <b>Excuse me.</b>  14 <b>The revocation has a specific timeframe</b>  15 <b>and the suspension is generally, for example, pending</b>  16 <b>the outcome of a disposition.</b>  17 Q. So if they get a notice of revocation, that  18 means their license has been revoked?  19 <b>A. The procedure is the same for a notice of</b>  20 <b>revocation. The individual is notified by certified</b>  21 <b>mail that the department is initiating a revocation</b>  22 <b>action. The person also has the opportunity to request</b>  23 <b>an administrative hearing. The procedure is very</b>  24 <b>similar, just the elements of the case may be slightly</b>  25 <b>different.</b></p>	<p style="text-align: right;">27</p> <p>1 Q. Does DPS ever send out a letter either as a  2 suspension or a revocation matter and request that the  3 CHL be returned to DPS?  4 <b>A. Yes.</b>  5 Q. Okay. So that is part of the process, is that  6 you request that they return that CHL?  7 <b>A. Once the -- the final action is taken and the</b>  8 <b>suspension or revocation goes into effect, the</b>  9 <b>individual is instructed in that written correspondence</b>  10 <b>to return the license to the department.</b>  11 Q. What happens if that individual does not  12 return the CHL?  13 <b>A. The statute provides the department with some</b>  14 <b>guidance, authority, to take additional enforcement</b>  15 <b>action against the individual. And that's -- that's</b>  16 <b>the only one that I can recall off the top of my head.</b>  17 Q. Okay. Does that mean there's a criminal  18 penalty associated with not returning the CHL?  19 <b>A. I'm not familiar whether there is a criminal</b>  20 <b>penalty attached to that or not.</b>  21 Q. Okay. And that request to return the CHL is  22 only after a final action has occurred? I mean, while  23 the license is in suspension, I assume they keep  24 possession of it?  25 <b>A. Say that one more time.</b></p>
<p style="text-align: right;">26</p> <p>1 Q. Okay. When would the -- or strike that.  2 What -- what circumstances would result  3 in a law enforcement officer confiscating a CHL, taking  4 physical possession of a CHL?  5 <b>A. Repeat the question one more time.</b>  6 Q. Sure. Is there a time when you're stopped for  7 a traffic violation, you go into a DPS office, that  8 you -- any time you've used or show your CHL, is there  9 a time when the officer, whether it be a trooper or  10 local law enforcement officer, would confiscate or take  11 possession of that CHL?  12 <b>A. In the situation of a traffic stop, the</b>  13 <b>officer may have the CHL in his or her possession. I</b>  14 <b>believe the statute specifically says that the officer</b>  15 <b>may ask for the individual to surrender the CHL in</b>  16 <b>limited circumstances, specifically when that person is</b>  17 <b>being arrested.</b>  18 Q. Okay. Is there a time when a traffic citation  19 is issued and the officer would take possession of the  20 CHL because it's -- had been revoked or had -- was in  21 suspension, or do you know?  22 <b>A. I do not know.</b>  23 Q. Okay.  24 <b>A. Probably be more appropriate to the specific</b>  25 <b>law enforcement agency that makes that stop.</b></p>	<p style="text-align: right;">28</p> <p>1 Q. Sure. The only time that it's asked -- the  2 only time that DPS asks someone to return the CHL is  3 when there's a final disposition of the CHL?  4 <b>A. We ask the individual to return the CHL or</b>  5 <b>surrender the concealed handgun license when we are</b>  6 <b>initiating action. If the person requests a hearing</b>  7 <b>that stays the action pending the outcome of the</b>  8 <b>administrative hearing, then the individual is not</b>  9 <b>required to return the license or to surrender it until</b>  10 <b>the disposition of that administrative hearing.</b>  11 Q. If they do not require -- strike that.  12 If they do not request a hearing when  13 they get a suspension letter, then when that becomes  14 final DPS requests it back?  15 <b>A. The -- it's included all in the same letter.</b>  16 Q. Okay. So if it's --  17 <b>A. If you choose not to request a hearing, please</b>  18 <b>surrender your license within -- and it gives a</b>  19 <b>specific timeframe.</b>  20 Q. Okay. Do you know if during a traffic stop  21 when the officer takes your license and runs it through  22 whatever database, does it show whether or not that  23 person carries a concealed handgun or has a CHL by just  24 using my driver's license?  25 <b>A. Yes. When the officer conducts the traffic</b></p>

SHERRI ZGABAY

6/9/2014

8 (Pages 29 to 32)

<p style="text-align: right;">29</p> <p>1 stop in that scenario you've given, then, yes, the</p> <p>2 officer will be -- receive in the return as you spoke</p> <p>3 to whether or not the person is a licensed concealed</p> <p>4 holder in Texas.</p> <p>5 Q. Just by virtue of my driver's license?</p> <p>6 A. I can't say by virtue of your driver license,</p> <p>7 because --</p> <p>8 Q. You know, they go back to their computer and</p> <p>9 they type --</p> <p>10 A. Right.</p> <p>11 Q. -- in your driver's license number --</p> <p>12 A. But sometimes that's not by license number;</p> <p>13 it's by your name.</p> <p>14 Q. Okay. They put in my name, they put in my</p> <p>15 driver's license name. Does it come up on their screen</p> <p>16 that I have a CHL?</p> <p>17 A. When the officer can -- I guess, more</p> <p>18 appropriately, when the officer conducts the -- the</p> <p>19 traffic stop and runs the person's information, whether</p> <p>20 it be their driver license number, whether it be their</p> <p>21 name and date of birth for somebody who may not have</p> <p>22 their driver license on them at the time, based on the</p> <p>23 information provided by the person who has been</p> <p>24 stopped, the officer will be provided information as to</p> <p>25 whether or not that individual has a concealed handgun</p>	<p style="text-align: right;">31</p> <p>1 statute does require that if no additional background</p> <p>2 review is required, the department must issue the</p> <p>3 original license within 60 days and renewals within</p> <p>4 45 days. And we are currently meeting those statutory</p> <p>5 requirements.</p> <p>6 Q. If additional information is required, does</p> <p>7 that extend that time period?</p> <p>8 A. Yes, sir. The statute provides for an</p> <p>9 additional 180 days.</p> <p>10 Q. Is the person notified of the problem that</p> <p>11 is -- or the reason there's a delay?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Can you use a Texas personal</p> <p>14 identification card to obtain a CHL?</p> <p>15 A. Yes.</p> <p>16 Q. The CHL database, is it merged at any point or</p> <p>17 compared with the driver's license database?</p> <p>18 A. No, sir.</p> <p>19 Q. But the CHL database would indicate how many</p> <p>20 CHL holders are also holders of Texas driver's license?</p> <p>21 A. No, sir, not necessarily.</p> <p>22 Q. Okay. I thought you said earlier when I was</p> <p>23 going through the categories that it would tell me how</p> <p>24 many of those 750,000 held Texas driver's licenses.</p> <p>25 A. It tells you their age, their race, their sex,</p>
<p style="text-align: right;">30</p> <p>1 license in Texas.</p> <p>2 Q. Okay. Even though they have separate numbers</p> <p>3 and they're separate cards?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Is there a process in the future where</p> <p>6 those are going to be combined?</p> <p>7 A. I'm not aware of a process in the future where</p> <p>8 those would be combined.</p> <p>9 Q. Do you know why they're not combined?</p> <p>10 A. I do know the reason they're not combined.</p> <p>11 It's because the statute doesn't provide for that. It</p> <p>12 specifically provides for -- in my case in concealed</p> <p>13 handguns, specifically a card to be issued for</p> <p>14 concealed handgun.</p> <p>15 Q. Is it because they're getting a driver's</p> <p>16 license and getting a concealed handgun license require</p> <p>17 different types of documentation and information, or do</p> <p>18 you know?</p> <p>19 A. I do not know why the statute was crafted in</p> <p>20 the manner that it was.</p> <p>21 Q. How long does it take once the application is</p> <p>22 received by DPS to issue a CHL?</p> <p>23 A. The timeframe can vary based on the applicant</p> <p>24 and the -- any additional information that might be</p> <p>25 required from the background investigation. But the</p>	<p style="text-align: right;">32</p> <p>1 the county of residence or the ZIP code of the county</p> <p>2 of residence or the ZIP code of where the individual</p> <p>3 lives, but it doesn't contain specific reports that we</p> <p>4 produce that give you individuals with a Texas driver</p> <p>5 license versus the out-of-state driver license. Those</p> <p>6 are not reports that we specifically produce, if I'm</p> <p>7 understanding your question correctly.</p> <p>8 Q. Yes and no.</p> <p>9 A. Okay.</p> <p>10 Q. I understand your answer. My question is, can</p> <p>11 you run a search to determine how many of the</p> <p>12 approximately 750,000 CHL holders also have a Texas</p> <p>13 driver's license?</p> <p>14 A. I can -- I know that we can query the system</p> <p>15 to determine how many of the concealed handgun licenses</p> <p>16 contain a Texas driver license number or Texas ID card</p> <p>17 number or an out-of-state number, but I cannot tell you</p> <p>18 how many of those are valid numbers at any given time</p> <p>19 because we don't -- the two databases do not interface.</p> <p>20 Q. And when you say "valid," do you mean you</p> <p>21 would not know if the Texas driver's license for some</p> <p>22 of the 750,000 had expired?</p> <p>23 A. That would be correct.</p> <p>24 Q. Because you don't merge the two?</p> <p>25 A. Correct.</p>



SHERRI ZGABAY

6/9/2014

9 (Pages 33 to 36)

<p style="text-align: right;">33</p> <p>1 Q. Okay.</p> <p>2 MR. BRAZIL: What's the next one, 140 --</p> <p>3 let's see here.</p> <p>4 THE REPORTER: 142.</p> <p>5 MR. BRAZIL: Huh?</p> <p>6 THE REPORTER: 142.</p> <p>7 MR. BRAZIL: 142 sounds good to me.</p> <p>8 THE REPORTER: Didn't you already mark</p> <p>9 it?</p> <p>10 MR. BRAZIL: Okay.</p> <p>11 Q. (BY MR. BRAZIL) I show you what has been</p> <p>12 marked as 142 --</p> <p>13 A. Okay.</p> <p>14 Q. -- and ask you to identify that, please. It's</p> <p>15 right there.</p> <p>16 A. This particular document is the fee table,</p> <p>17 sometimes referenced as fee chart. It is a document</p> <p>18 that we have available for customers on our on-line --</p> <p>19 on our website.</p> <p>20 Q. This is the different types of fees for the</p> <p>21 different types of concealed handgun licenses?</p> <p>22 A. There's -- there's only one type of license,</p> <p>23 but each of these represents different discounts that a</p> <p>24 customer might receive when they apply for their</p> <p>25 concealed handgun license.</p>	<p style="text-align: right;">35</p> <p>1 MS. MARANZANO: Okay.</p> <p>2 Q. (BY MR. BRAZIL) Is that correct? I need a</p> <p>3 yes from you.</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 A. Yes.</p> <p>7 Q. All right.</p> <p>8 A. I'm sorry.</p> <p>9 Q. And it says at the top the first requirement</p> <p>10 is a valid driver's license or identification card; is</p> <p>11 that correct?</p> <p>12 A. It says, "Please provide the following</p> <p>13 information." Those are data fields that the customer</p> <p>14 will be asked to provide information for as they</p> <p>15 navigate through the on-line application page.</p> <p>16 Q. So they will need a valid driver's license</p> <p>17 from some state?</p> <p>18 A. We do ask for that information on the on-line</p> <p>19 application, yes, sir.</p> <p>20 Q. What if it's a valid driver's license from</p> <p>21 Canada?</p> <p>22 A. We'll accept valid license from anywhere.</p> <p>23 Q. Okay. Mexico?</p> <p>24 A. (Nods head affirmatively.)</p> <p>25 Q. Is that a yes?</p>
<p style="text-align: right;">34</p> <p>1 Q. Okay. And this is from the website and also,</p> <p>2 I assume, available in paper form?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Is there any waiver of any of these</p> <p>5 fees for someone who is below a certain income level or</p> <p>6 at a certain poverty level?</p> <p>7 A. Yes. One of the specific conditions -- these</p> <p>8 are often referenced as a special condition either by</p> <p>9 rule or statute. One of them is indigence,</p> <p>10 specifically listed in the statute as a reduced cost, a</p> <p>11 reduced fee to the individual if they fall below or</p> <p>12 they're at the poverty level set forth in the federal</p> <p>13 guidelines.</p> <p>14 Q. Okay. Let me show you 143.</p> <p>15 A. Yes, sir.</p> <p>16 Q. And 143 is from the website?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And this is -- what would you call this, the</p> <p>19 face page or the introductory page?</p> <p>20 A. This is the first page an applicant will see</p> <p>21 when they are beginning the process for an on-line</p> <p>22 application.</p> <p>23 Q. Okay. And just so Jennifer will know -- she's</p> <p>24 on the phone here. This is Page 1 of 1 at the bottom;</p> <p>25 is that correct?</p>	<p style="text-align: right;">36</p> <p>1 A. Yes. I'm sorry. I forget. Don't shake my</p> <p>2 head.</p> <p>3 Q. An identification card, what is meant by that?</p> <p>4 A. Those are any type of state -- state-issued</p> <p>5 identification card. And I say "state-issued." On a</p> <p>6 rare occasion we might have one issued from a foreign</p> <p>7 country. But, generally speaking, those are</p> <p>8 state-issued identification cards.</p> <p>9 Q. Not just from Texas?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. Okay. Exhibit 144 is another snapshot</p> <p>12 from the DPS website, is it not?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And this is Page -- it's two pages. Pages 1</p> <p>15 of 2 and 2 of 2, correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And what do you call this page?</p> <p>18 A. Let me take a quick --</p> <p>19 Q. How would you designate this page?</p> <p>20 A. -- look at this one. This is the next -- the</p> <p>21 correct terminology for this page. This is a</p> <p>22 continuation of the introduction for the on-line</p> <p>23 application process.</p> <p>24 Q. Okay. And if you have a Texas ID or a Texas</p> <p>25 driver's license, you continue here. If you hold a</p>

SHERRI ZGABAY

6/9/2014

10 (Pages 37 to 40)

<p style="text-align: right;">37</p> <p>1 driver's license from another state, you go to a</p> <p>2 different window or a different page?</p> <p>3 <b>A. Correct. You click on a separate area of the</b></p> <p>4 <b>web page and it takes you to a different window to</b></p> <p>5 <b>provide the out-of-state information.</b></p> <p>6 Q. Okay. What is a CHL 88 revocation affidavit?</p> <p>7 <b>A. I would have to see one off the top -- that</b></p> <p>8 <b>number is --</b></p> <p>9 Q. Now, for some reason, I only have one copy of</p> <p>10 this. I don't know why. But what is that?</p> <p>11 <b>A. I'm not familiar -- oh, I'm sorry. This</b></p> <p>12 <b>Exhibit 146 is the instructions for the law enforcement</b></p> <p>13 <b>officer who may be submitting documentation to the</b></p> <p>14 <b>department asking that we initiate revocation action</b></p> <p>15 <b>because the officer has come into contact with an</b></p> <p>16 <b>individual that they believe no longer meets the</b></p> <p>17 <b>criteria to hold a concealed handgun license.</b></p> <p>18 Q. So that's something that a law enforcement</p> <p>19 individual or agency would execute?</p> <p>20 <b>A. Correct. There's actually another form. I</b></p> <p>21 <b>can't call the number off the top of my head. But this</b></p> <p>22 <b>is the instruction form. There is an actual</b></p> <p>23 <b>affidavit -- revocation affidavit that the -- is made</b></p> <p>24 <b>available on our website. It's a downloadable form.</b></p> <p>25 <b>And the officer can fill that form out and submit it to</b></p>	<p style="text-align: right;">39</p> <p>1 <b>A. We do not.</b></p> <p>2 Q. Okay. Now, I understand that some counties</p> <p>3 and some private entities can get information from DPS</p> <p>4 through the driver's license database. Can they do</p> <p>5 that through the CHL database?</p> <p>6 <b>A. No, sir.</b></p> <p>7 Q. All right. So that information is -- I don't</p> <p>8 know -- private? I don't know -- however term you</p> <p>9 might -- might want to use; is that correct?</p> <p>10 <b>A. That is correct. I would believe private is</b></p> <p>11 <b>the correct terminology.</b></p> <p>12 Q. Do any other -- other than law enforcement</p> <p>13 agencies or entities, do any private organizations have</p> <p>14 access or can they get access to the CHL?</p> <p>15 <b>A. Not through general means. The statute</b></p> <p>16 <b>specifically says that limited information may be</b></p> <p>17 <b>provided to a criminal justice agency/entity, and all</b></p> <p>18 <b>other concealed handgun license information is</b></p> <p>19 <b>specifically not subject to the open records privacy</b></p> <p>20 <b>information; however, some of the information may be</b></p> <p>21 <b>subpoenaed. It would require some form of other legal</b></p> <p>22 <b>action, but it is not information that is just made</b></p> <p>23 <b>readily available to anyone in the general public.</b></p> <p>24 Q. For example, a county's election official or</p> <p>25 voter registrar's office or someone conducting</p>
<p style="text-align: right;">38</p> <p>1 <b>the department for us to potentially initiate</b></p> <p>2 <b>revocation action.</b></p> <p>3 Q. All right. Does the DPS send information to</p> <p>4 the counties on individuals whose CHL has been revoked</p> <p>5 or suspended?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. Do the law enforcement agencies outside</p> <p>8 DPS receive that kind of information?</p> <p>9 <b>A. No, sir.</b></p> <p>10 Q. So if you're stopped by Harris County</p> <p>11 Sheriff's Department, they will not know that a CHL has</p> <p>12 been suspended or revoked?</p> <p>13 <b>A. No, we do not send the information to them</b></p> <p>14 <b>specifically. But in the course of a contact with an</b></p> <p>15 <b>individual, the law enforcement has the ability to</b></p> <p>16 <b>check the status of the concealed handgun license.</b></p> <p>17 Q. Okay. Bad question on my part.</p> <p>18 <b>A. That's okay.</b></p> <p>19 Q. I mean, other agencies have access to that</p> <p>20 information?</p> <p>21 <b>A. They have limited access based on some</b></p> <p>22 <b>statutory guidelines, yes, sir.</b></p> <p>23 Q. Okay. If -- but the DPS does not provide</p> <p>24 information to counties on a regular basis about CHLs,</p> <p>25 do they?</p>	<p style="text-align: right;">40</p> <p>1 elections would not normally have access to the CHL</p> <p>2 database?</p> <p>3 <b>A. That is correct.</b></p> <p>4 Q. Would there be any way for some -- for someone</p> <p>5 to know when you went to a polling place and you have a</p> <p>6 CHL, would they -- would anybody at that polling</p> <p>7 location know whether or not my CHL was valid, revoked,</p> <p>8 or suspended?</p> <p>9 <b>A. I am not aware of the process, to be quite</b></p> <p>10 <b>honest, of what the individuals at the polling places</b></p> <p>11 <b>would have available in front of them.</b></p> <p>12 Q. If I went down to register to vote and I</p> <p>13 wanted to use my CHL, would the county official know</p> <p>14 one way or the other the status of my CHL?</p> <p>15 <b>A. I am not aware of any method that they would</b></p> <p>16 <b>know those statuses, not based on any information</b></p> <p>17 <b>provided by the department.</b></p> <p>18 Q. Okay. Let me hand you what is marked as 147.</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. And that is a copy of House Bill 698, which I</p> <p>21 believe became effective in September of last year.</p> <p>22 Are you familiar with that?</p> <p>23 <b>A. I am familiar with House Bill 698, yes.</b></p> <p>24 Q. What exactly does -- did that amendment do?</p> <p>25 <b>A. The -- what House Bill 698 did is it amended</b></p>

SHERRI ZGABAY

6/9/2014

11 (Pages 41 to 44)

<p style="text-align: right;">41</p> <p>1 the government code, obviously, to allow individuals</p> <p>2 the opportunity to submit fingerprints in an</p> <p>3 alternative manner other than the electronic</p> <p>4 submission.</p> <p>5 Q. Okay. When you say "electronic submission,"</p> <p>6 currently there's a requirement for most counties or</p> <p>7 most people to use electronic submission of</p> <p>8 fingerprints?</p> <p>9 A. Currently, the administrative rules and</p> <p>10 requirements for submission of fingerprints is to</p> <p>11 utilize the Fingerprint Application Services of Texas,</p> <p>12 also known as FAST, for submission of fingerprints.</p> <p>13 Individuals make an appointment, they visit a FAST</p> <p>14 location, and their fingerprints are taken at that</p> <p>15 point and then submitted electronically to the</p> <p>16 department as opposed to what most would recognize as</p> <p>17 the ink rolled card. This particular amendment to the</p> <p>18 statute in House Bill 698 allows for certain</p> <p>19 individuals who meet the criteria outlined in the bill</p> <p>20 to request waiver of the electronic application --</p> <p>21 electronic submission of fingerprints and allows those</p> <p>22 individuals to have their fingerprints submitted on an</p> <p>23 actual card to the department.</p> <p>24 Q. Okay. So this change allows certain</p> <p>25 individuals to submit it the old-fashioned way?</p>	<p style="text-align: right;">43</p> <p>1 A. Yes, sir.</p> <p>2 Q. And so White and Hispanic are one category?</p> <p>3 A. That's correct.</p> <p>4 Q. Then we have Asian, Pacific Islander, American</p> <p>5 Indian, Alaskan Native, Black, Other, and Unknown?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. And then White/Hispanic?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know why the White and Hispanics are</p> <p>10 one category?</p> <p>11 A. I do not know.</p> <p>12 Q. Do you know what other DPS applications</p> <p>13 combine those two races?</p> <p>14 A. I'm not familiar with the other applications</p> <p>15 in that specific -- in the race category, no, sir.</p> <p>16 MR. BRAZIL: Let's take a short break.</p> <p>17 I'm almost finished before I pass the witness.</p> <p>18 MR. KEISTER: Okay. No problem.</p> <p>19 (Recess from 1:55 p.m. to 2:05 p.m.)</p> <p>20 MR. BRAZIL: Thank you. I'll pass the</p> <p>21 witness.</p> <p>22 EXAMINATION</p> <p>23 BY MS. MARANZANO:</p> <p>24 Q. Hi. This is Jennifer Maranzano. I represent</p> <p>25 the United States in this case. I have a few</p>
<p style="text-align: right;">42</p> <p>1 A. Yes. That would be a good explanation, yes,</p> <p>2 sir.</p> <p>3 Q. Okay. Because originally when the CHL law</p> <p>4 passed, fingerprints were submitted by paper, or the</p> <p>5 old-fashioned way?</p> <p>6 A. Correct, two fingerprint cards ink rolled.</p> <p>7 Q. Okay. Let me show what is marked as 145,</p> <p>8 which, I believe, is the application from the website,</p> <p>9 correct?</p> <p>10 A. That is -- that's correct. This is the -- one</p> <p>11 of the portions of the application, yes.</p> <p>12 Q. Okay. And we've already talked about driver's</p> <p>13 license, ID card, issuing state, things of that nature.</p> <p>14 A. Yes, sir.</p> <p>15 Q. I noticed under "Personal Identifiers" --</p> <p>16 A. Yes.</p> <p>17 Q. -- that -- first of all, is this Exhibit</p> <p>18 Number --</p> <p>19 A. This is Exhibit No. 145, also noted as the</p> <p>20 CHL 78-A in the bottom left of the form.</p> <p>21 Q. Is this the current application form, CHL?</p> <p>22 A. I believe this is the current application</p> <p>23 form, yes, sir.</p> <p>24 Q. So the only categories of race for a CHL are</p> <p>25 those noted under "Personal Identifiers"?</p>	<p style="text-align: right;">44</p> <p>1 additional questions for you. Can you hear me okay?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Okay. Great. I believe that you testified</p> <p>4 earlier that a person can apply for a concealed handgun</p> <p>5 license in person, on-line or by mail; is that correct?</p> <p>6 A. No, ma'am. The -- the person can apply</p> <p>7 on-line, by mail, or they may deliver an application to</p> <p>8 a drop box, but it isn't an actual in-person process.</p> <p>9 And the individual is not required to submit it by</p> <p>10 mail. They can drop off the application, but it isn't</p> <p>11 an in-person, per se, where they approach a counter and</p> <p>12 visit with an individual or, you know, submit paperwork</p> <p>13 speaking to an individual. We just provide physically</p> <p>14 a drop box that the individual can place their</p> <p>15 documentation in.</p> <p>16 Q. I see. Okay. Thank you for that</p> <p>17 clarification.</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. And is there a requirement about how current</p> <p>20 the photographs that the applicant submits has to be?</p> <p>21 A. There are really kind of two parts to that,</p> <p>22 because currently the applicant who holds a Texas</p> <p>23 driver license or identification card is not required</p> <p>24 nor are they allowed to submit photographs. We</p> <p>25 actually utilize the photo that is maintained through</p>

SHERRI ZGABAY

6/9/2014

12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 driver license. So we utilize the exact same</p> <p>2 photograph that is on their Texas DL or ID card for</p> <p>3 those who hold a Texas DL or ID.</p> <p>4 For those who have an out-of-state driver</p> <p>5 license or identification card, we do ask for the</p> <p>6 two passport-style photos. And we have a comparison,</p> <p>7 you know, visually compare the photos submitted by the</p> <p>8 person to the photo that is on their driver license or</p> <p>9 ID card from the other state to ensure that they are a</p> <p>10 good likeness or representation of the individual. It</p> <p>11 is not a date-specific photo requirement, but we do</p> <p>12 require that the photo that is being submitted in the</p> <p>13 passport-style photo must be a good likeness image of</p> <p>14 the photograph that appears on their identification</p> <p>15 card or driver license issued by another state.</p> <p>16 Q. Who at DPS does that comparison to determine</p> <p>17 if it's a good likeness between the two photographs?</p> <p>18 A. Those are individuals that work under my</p> <p>19 direction. We have a staff of individuals that</p> <p>20 specifically data enter the information, conduct</p> <p>21 background checks, and that would include the</p> <p>22 photograph process.</p> <p>23 Q. And do they get specific training on how to</p> <p>24 compare photographs?</p> <p>25 A. Well, the visual photograph -- yes, they do</p>	<p style="text-align: right;">47</p> <p>1 photographs, yes, ma'am, as the person goes through the</p> <p>2 renewal process.</p> <p>3 Q. Okay. Is the fingerprinting part -- is the</p> <p>4 fingerprinting part of the fee that you're charging or</p> <p>5 do applicants have to pay for fingerprinting separate</p> <p>6 and apart from the concealed handgun license fee?</p> <p>7 A. They are separate and apart from the concealed</p> <p>8 handgun license fee.</p> <p>9 Q. Okay. When we were -- when you were</p> <p>10 discussing Exhibit 142, which is the fee table --</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. -- you referenced that there was a -- that</p> <p>13 these -- there were some reduced fees. And I think the</p> <p>14 fee table reflects some of those reduced fees; is that</p> <p>15 correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Are there any additional circumstances under</p> <p>18 which an individual would be able to pay a reduced fee</p> <p>19 that are not reflected on this document?</p> <p>20 A. No, ma'am. This is the most updated</p> <p>21 compilation of fees for a concealed handgun license.</p> <p>22 Q. And did you say that the -- the reduced fee</p> <p>23 for those who are indigent was set by statute?</p> <p>24 A. The statute, yes. It's not a literal --</p> <p>25 literally set by statute. If I recall correctly, I</p>
<p style="text-align: right;">46</p> <p>1 receive training, but the visual photograph comparison</p> <p>2 is not highly technological. We just do some general</p> <p>3 visual comparison to see that we can identify that the</p> <p>4 two individuals have the same likeness. And if there</p> <p>5 is anything in question we will ask for additional</p> <p>6 clarification or additional information from the</p> <p>7 individual.</p> <p>8 Q. And if -- if an individual holds a Texas</p> <p>9 driver's license or a Texas personal ID and DPS is</p> <p>10 utilizing the photograph from those identifications,</p> <p>11 does that photo continue to get updated as the driver's</p> <p>12 license and ID photo is updated?</p> <p>13 A. We are updating photograph information. The</p> <p>14 use of the Texas DL or ID, the technology that allow us</p> <p>15 to do that is fairly new. So we are in the process of</p> <p>16 updating the photographs as the individuals renew their</p> <p>17 concealed handgun licenses.</p> <p>18 Q. Okay. So -- so just to make sure -- I think</p> <p>19 my question was a little confusing. I guess what I'm</p> <p>20 asking is, so when an individual renews their concealed</p> <p>21 handgun license, there would be some kind of check to</p> <p>22 determine if there had been an updated photo on their</p> <p>23 Texas driver's license or personal ID, and if there was</p> <p>24 that updated photo would be utilized; is that correct?</p> <p>25 A. Correct. We are -- we are updating the</p>	<p style="text-align: right;">48</p> <p>1 believe the statute says that the department may -- may</p> <p>2 charge a fee that is half of the standard. So it -- I</p> <p>3 don't believe it specifically says \$70. It says "half</p> <p>4 of the standard," which is \$140. That's how we arrive</p> <p>5 at the \$70.</p> <p>6 Q. Okay. And the -- the fee -- the regular</p> <p>7 standard fee of \$140, is that -- that's set by statute</p> <p>8 also, correct?</p> <p>9 A. Yes, ma'am. The \$140 standard fee is set</p> <p>10 through statute.</p> <p>11 Q. Do you know when the statute that allowed for</p> <p>12 people who are indigent to pay half of the standard</p> <p>13 fee, when that was passed?</p> <p>14 A. No, ma'am. I don't have that information</p> <p>15 readily available off the top of my head.</p> <p>16 Q. Okay. Has that been in place for the whole</p> <p>17 time you've been working with the concealed handgun</p> <p>18 licenses?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Is it correct that there's a -- there's a</p> <p>21 required class that applicants for a CHL have to take</p> <p>22 before they can obtain a license?</p> <p>23 A. There is a required class that some concealed</p> <p>24 handgun applicants must complete prior to the initial</p> <p>25 issuance of a concealed handgun license. There are a</p>

SHERRI ZGABAY

6/9/2014

13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1 few exceptions, and those are specifically designated</p> <p>2 by statute.</p> <p>3 Q. And the class -- is the class run by DPS?</p> <p>4 A. No, ma'am. The class is taught by concealed</p> <p>5 handgun instructors that are certified to provide the</p> <p>6 course. They are certified by the Department of Public</p> <p>7 Safety.</p> <p>8 Q. Do you know how much these -- these courses</p> <p>9 cost?</p> <p>10 A. I know the fees are not regulated by the</p> <p>11 department, and they range at various different costs.</p> <p>12 I don't have specific, you know, numbers because the</p> <p>13 department doesn't regulate the fee. It is not</p> <p>14 regulated by statute nor by rule.</p> <p>15 Q. Are they ever offered in languages other than</p> <p>16 English?</p> <p>17 A. Yes.</p> <p>18 Q. What languages?</p> <p>19 A. I don't know specifically. I do know that the</p> <p>20 instructors -- because they are also certified through</p> <p>21 a process under the area I'm responsible for,</p> <p>22 instructors do tell us if they offer the classes in</p> <p>23 different languages, but I couldn't tell you</p> <p>24 specifically which languages those are.</p> <p>25 Q. Okay. When an individual applies or --</p>	<p style="text-align: right;">51</p> <p>1 make any distinction or indicate in any way whether the</p> <p>2 individual is a citizen or not a citizen?</p> <p>3 A. No, ma'am.</p> <p>4 Q. Can you look at Exhibit 148?</p> <p>5 THE REPORTER: We don't have an</p> <p>6 Exhibit 148.</p> <p>7 MS. MARANZANO: Oh, the HC 698, was that</p> <p>8 Exhibit 148?</p> <p>9 MR. KEISTER: That's 147.</p> <p>10 MS. MARANZANO: I'm sorry. 147.</p> <p>11 THE WITNESS: Okay. Yes, ma'am, I have</p> <p>12 that in front of me.</p> <p>13 Q. (BY MS. MARANZANO) Okay. And when we were</p> <p>14 talking about this earlier, you mentioned that</p> <p>15 individuals -- certain individuals were eligible for</p> <p>16 this alternative procedure to submit fingerprints; is</p> <p>17 that correct?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. And is it -- is it correct, looking at the</p> <p>20 bill, that the individuals who would be eligible for</p> <p>21 this procedure are those that reside in a county having</p> <p>22 a population of 46,000 or less and do not reside within</p> <p>23 a 25-mile radius of a facility with the capacity to</p> <p>24 process digital or electronic fingerprints?</p> <p>25 A. Yes, ma'am, that's correct.</p>
<p style="text-align: right;">50</p> <p>1 applies to renew their -- their concealed handgun</p> <p>2 license, is there -- does CPS rerun checks on their</p> <p>3 fingerprints?</p> <p>4 A. Can you restate that question one more time?</p> <p>5 Q. Yes. When an individual attempts to renew</p> <p>6 their concealed handgun license, does DPS run any --</p> <p>7 any checks on their fingerprints at that time, at the</p> <p>8 renewal time?</p> <p>9 A. Yes, ma'am. We complete a -- we conduct</p> <p>10 another complete fingerprint-based background check in</p> <p>11 the -- the same manner that we did for an original</p> <p>12 application.</p> <p>13 Q. So DPS does an entire background check for a</p> <p>14 renewal as well as for an initial application?</p> <p>15 A. Yes, ma'am, that's correct.</p> <p>16 Q. And the background check is the same for</p> <p>17 each -- for the initial application and for the</p> <p>18 renewal?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. If you -- I believe you testified earlier that</p> <p>21 an individual who was lawfully in the United States</p> <p>22 could get a concealed handgun license even if they</p> <p>23 weren't a US citizen; is that correct?</p> <p>24 A. That is correct.</p> <p>25 Q. Does the face of the concealed handgun license</p>	<p style="text-align: right;">52</p> <p>1 Q. Were you involved in the development of this</p> <p>2 legislation?</p> <p>3 A. No, ma'am. I was a resource witness, resource</p> <p>4 for analysis and testimony of the bill.</p> <p>5 Q. And when you say you were a resource witness,</p> <p>6 can you tell me what that means?</p> <p>7 A. Well, resource witness means that I didn't</p> <p>8 specifically help develop the bill or design the bill,</p> <p>9 but I was responsible for analyzing the impact that it</p> <p>10 would have for my specific area that I'm responsible</p> <p>11 for in licensing and ultimately was responsible for</p> <p>12 putting together fiscal analysis, that type of</p> <p>13 information as a resource.</p> <p>14 Q. I see. And -- and what impact did you</p> <p>15 determine it would have?</p> <p>16 A. If -- now, to be honest, I don't have my notes</p> <p>17 in front of me, but I -- I believe the -- excuse me.</p> <p>18 Let me rephrase that. The official impact as far as --</p> <p>19 are you talking about for cost or are you talking about</p> <p>20 for procedural?</p> <p>21 Q. I thought that you said that one of your roles</p> <p>22 as a resource witness was to analyze the impact --</p> <p>23 A. Correct.</p> <p>24 Q. -- is that right? So I'm just wondering sort</p> <p>25 of what you determined the impact to be.</p>



SHERRI ZGABAY

6/9/2014

14 (Pages 53 to 56)

<div style="text-align: right; margin-bottom: 10px;">53</div> <div style="margin-bottom: 10px;"> <p>1     <b>A. The impact. Okay. I apologize. We -- we</b></p> <p>2     <b>analyze them in two different -- one is for fiscal</b></p> <p>3     <b>impact and one is for procedural or whether or not, you</b></p> <p>4     <b>know, it would require us to change our -- our</b></p> <p>5     <b>procedures as far as the issuance of the concealed</b></p> <p>6     <b>handgun.</b></p> <p>7         <b>The impact that -- for fiscal impact,</b></p> <p>8         <b>none. For the procedural impact, it required us to</b></p> <p>9         <b>develop updates to our website, a specific form that</b></p> <p>10        <b>customers must sign in order for those to be able to</b></p> <p>11        <b>submit their fingerprint cards as opposed to submitting</b></p> <p>12        <b>fingerprints electronically. So there are some minimal</b></p> <p>13        <b>operational impact that we experienced.</b></p> <p>14        <b>Q. Did -- did anybody, any legislators, express a</b></p> <p>15        <b>concern that requiring an individual to travel more</b></p> <p>16        <b>than 25 miles to get -- to -- to get to a facility that</b></p> <p>17        <b>has the capacity to process the digital or electronic</b></p> <p>18        <b>fingerprints would be a burden for those individuals?</b></p> <p>19        <b>A. Not to me specifically. I don't recall having</b></p> <p>20        <b>any conversation with a specific legislator about that,</b></p> <p>21        <b>but I do believe that was some of the information in</b></p> <p>22        <b>the testimony for the hearings that we attended.</b></p> <p>23        <b>Q. Do you know what prompted the development of</b></p> <p>24        <b>HB 698?</b></p> <p>25        <b>A. I was advised that this was prompted because</b></p> </div>	<div style="text-align: right; margin-bottom: 10px;">55</div> <div> <p>1                WITNESS CORRECTIONS AND SIGNATURE</p> <p>2                Please indicate changes on this sheet of paper,</p> <p>3                giving the change, page number, line number, and reason</p> <p>4                for the change. Please sign each page of changes.</p> <p>5                PAGE/LINE   CORRECTION   REASON FOR CHANGE</p> <p>6                _____</p> <p>7                _____</p> <p>8                _____</p> <p>9                _____</p> <p>10              _____</p> <p>11              _____</p> <p>12              _____</p> <p>13              _____</p> <p>14              _____</p> <p>15              _____</p> <p>16              _____</p> <p>17              _____</p> <p>18              _____</p> <p>19              _____</p> <p>20              _____</p> <p>21              _____</p> <p>22              _____</p> <p>23              _____</p> <p>24              _____</p> <p>25                _____</p> <p style="text-align: center;">SHERRI ZGABAY</p> </div>
<div style="text-align: right; margin-bottom: 10px;">54</div> <div> <p>1     <b>of concern by constituents in specific areas, specific</b></p> <p>2     <b>rural areas that the locations for fingerprinting were</b></p> <p>3     <b>not readily available.</b></p> <p>4        <b>Q. Do you know if anybody at DPS was involved in</b></p> <p>5        <b>the development of this legislation?</b></p> <p>6        <b>A. I would honestly have to defer that to our</b></p> <p>7        <b>government relations because they coordinate all</b></p> <p>8        <b>legislative responses.</b></p> <p>9        <b>Q. Okay. I don't think I have anything further.</b></p> <p>10       <b>A. Okay.</b></p> <p>11       <b>Q. Thank you so much for your time.</b></p> <p>12       <b>A. Yes, ma'am.</b></p> <p>13            MR. BRAZIL: Neither do I. Thank you.</p> <p>14            THE WITNESS: Okay.</p> <p>15            MR. KEISTER: Okay. We'll reserve until</p> <p>16            time of trial and the witness will read and sign.</p> <p>17            THE REPORTER: Off the record.</p> <p>18            (Proceedings concluded at 2:21 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div>	<div style="text-align: right; margin-bottom: 10px;">56</div> <div> <p>1                SIGNATURE OF WITNESS</p> <p>2</p> <p>3                I, SHERRI ZGABAY, solemnly swear or affirm</p> <p>4                under the pains and penalties of perjury that the</p> <p>5                foregoing pages contain a true and correct transcript</p> <p>6                of the testimony given by me at the time and place</p> <p>7                stated, with the corrections, if any, and the reasons</p> <p>8                therefor noted on the foregoing correction pages(s).</p> <p>9</p> <p>10</p> <p>11</p> <p>12                _____</p> <p style="text-align: center;">SHERRI ZGABAY</p> <p>13</p> <p>14     Job No. 4-AUSTIN-162600 KS</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div>

SHERRI ZGABAY

6/9/2014

15 (Pages 57 to 59)

<p style="text-align: right;">57</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 CORPUS CHRISTI DIVISION 4 MARC VEASEY, et al., ) 5 Plaintiffs, ) 6 ) 7 v. ) CIVIL ACTION NUMBER 8 ) 2:13-cv-193(NGR) 9 RICK PERRY, et al., ) 10 Defendants. ) 11 ) 12 UNITED STATES OF AMERICA, ) 13 Plaintiff, ) 14 ) 15 TEXAS LEAGUE OF YOUNG ) 16 VOTERS EDUCATION FUND, ) 17 et al., ) 18 ) 19 Plaintiff- ) Civil Action 20 Intervenor, ) No. 2:13-cv-263(NGR) 21 ) 22 TEXAS ASSOCIATION OF ) 23 HISPANIC COUNTY JUDGES AND ) 24 COUNTY COMMISSIONERS, ) 25 et al., ) Plaintiff- ) Intervenor, ) v. ) STATE OF TEXAS, et al., ) Defendants. ) ***** REPORTER'S CERTIFICATE THE STATE OF TEXAS: COUNTY OF TRAVIS:  I, Kim Seibert, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:</p>	<p style="text-align: right;">59</p> <p>1 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the 2 ____ day of ____, 2014. 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;"><i>Kim Seibert</i></p> <p>Kim Seibert, Texas CSR 4589 Expiration Date: 12-31-2014 U.S. Legal Support, Inc. Austin Centre 701 Brazos, Suite 380 Austin, Texas 78701 Firm Registration 344 Expiration Date 12-31-2014</p> <p>Job No. 4-AUSTIN-162600 KS</p>
<p style="text-align: right;">58</p> <p>1 That the witness, SHERRI ZGABAY, was duly sworn by 2 the officer and that the transcript of the oral 3 deposition is a true record of the testimony given by 4 the witness; That the deposition transcript was 5 submitted on ____, 2014, to the witness, 6 or to the attorney for the witness, for examination, 7 signature, and return to U.S. Legal Support, Inc., by 8 ____, 2014; 9 10 That the amount of time used by each party at the 11 deposition is as follows: 12 Ms. Jennifer Maranzano - 16 min. 13 Mr. Scott Brazil - 52 min. 14 Mr. Ronald Keister - 15 I further certify that I am neither counsel for, 16 related to, nor employed by any of the parties or 17 attorneys in the action in which this proceeding was 18 taken, and further that I am not financially or 19 otherwise interested in the outcome of the action. 20 21 22 23 24 25</p>	

SHERRI ZGABAY

6/9/2014

1

<b>A</b>	<b>alarm</b> 8:25	42:22 44:7,10 50:12 50:14,17	<b>authority</b> 27:14
<b>\$140</b> 48:4,7,9	<b>Alaskan</b> 43:5		<b>authorize</b> 8:15
<b>\$70</b> 48:3,5	<b>allow</b> 20:25 41:1 46:14	<b>applications</b> 6:21 43:12,14	<b>automatic</b> 20:9 21:21
<b>ability</b> 38:15	<b>allowed</b> 44:24 48:11	<b>applied</b> 24:11	<b>available</b> 23:8,15 33:18 34:2 37:24 39:23 40:11 48:15 54:3
<b>able</b> 14:2 47:18 53:10	<b>allows</b> 7:18 10:8 12:13 20:20 41:18 41:21,24	<b>applies</b> 16:21 17:13 49:25 50:1	<b>Avenue</b> 3:5
<b>above-styled</b> 2:2	<b>alternative</b> 41:3 51:16	<b>apply</b> 7:21 12:2 17:5 18:8,12 23:20 33:24 44:4,6	<b>aware</b> 9:24 30:7 40:9 40:15
<b>absolutely</b> 17:23	<b>amended</b> 40:25	<b>applying</b> 17:8	<b>B</b>
<b>accept</b> 35:22	<b>amendment</b> 40:24 41:17	<b>appointment</b> 41:13	<b>B</b> 24:3
<b>access</b> 7:3,12,13,16 7:19 9:7 38:19,21 39:14,14 40:1	<b>AMERICA</b> 1:7 3:3 57:7	<b>approach</b> 44:11	<b>back</b> 5:25 28:14 29:8
<b>act</b> 15:14,20 20:21	<b>American</b> 43:4	<b>appropriate</b> 26:24	<b>background</b> 10:20 11:18 14:11,12,17 14:19,22 15:1,7,11 15:24 16:23 17:21 18:14 30:25 31:1 45:21 50:10,13,16
<b>action</b> 1:4,11 4:18 23:22,22 24:13 25:22 27:7,15,22 28:6,7 37:14 38:2 39:22 57:4,11 58:15 58:17	<b>ammunition</b> 15:14	<b>approximately</b> 22:6 22:12 32:12	<b>backwards</b> 25:12
<b>active</b> 22:8	<b>amount</b> 58:9	<b>area</b> 6:13,20 7:16 9:3 9:16 37:3 49:21 52:10	<b>Bad</b> 38:17
<b>activities</b> 15:23 24:21	<b>analysis</b> 52:4,12	<b>areas</b> 7:15 9:6 23:5 54:1,2	<b>based</b> 12:8 23:23 29:22 30:23 38:21 40:16
<b>actual</b> 9:20 11:11 37:22 41:23 44:8	<b>analyze</b> 52:22 53:2	<b>Arkansas</b> 14:9	<b>basis</b> 38:24
<b>additional</b> 11:3 13:20 13:23 17:22 27:14 30:24 31:1,6,9 44:1 46:5,6 47:17	<b>analyzing</b> 52:9	<b>arrested</b> 24:3 26:17	<b>began</b> 6:11
<b>additionally</b> 10:18	<b>and/or</b> 2:8	<b>arrive</b> 48:4	<b>beginning</b> 34:21
<b>administrative</b> 23:22 24:15 25:23 28:8,10 41:9	<b>answer</b> 5:19,21 14:25 32:10	<b>Asian</b> 43:4	<b>believe</b> 19:19 22:10 23:10 24:11 25:5 26:14 37:16 39:10 40:21 42:8,22 44:3 48:1,3 50:20 52:17 53:21
<b>advance</b> 8:1	<b>anybody</b> 40:6 53:14 54:4	<b>asked</b> 11:8 28:1 35:14	<b>benefit</b> 7:22,23
<b>advised</b> 53:25	<b>apart</b> 22:4 47:6,7	<b>asking</b> 4:17 14:1 37:14 46:20	<b>bill</b> 4:21 40:20,23,25 41:18,19 51:20 52:4 52:8,8
<b>advising</b> 24:13	<b>apologize</b> 53:1	<b>asks</b> 13:16 28:2	<b>birth</b> 13:18,25 14:3,4 17:9,9,15 29:21
<b>affidavit</b> 37:6,23,23	<b>Appearances</b> 4:2	<b>associated</b> 10:12 27:18	<b>Black</b> 43:5
<b>affirm</b> 56:3	<b>appears</b> 45:14	<b>ASSOCIATION</b> 1:12 57:12	<b>board</b> 10:1,2
<b>affirmatively</b> 35:24	<b>applicable</b> 11:15,15 21:15	<b>assume</b> 7:12 20:20 27:23 34:2	<b>born</b> 13:19,24 14:9 16:24 18:16
<b>afternoon</b> 5:6	<b>applicant</b> 14:14,17 30:23 34:20 44:20 44:22	<b>attached</b> 2:8 27:20	<b>Boston</b> 14:9
<b>age</b> 16:19,21 23:4,9 31:25	<b>applicants</b> 11:8 47:5 48:21,24	<b>attempts</b> 50:5	
<b>agencies</b> 38:7,19 39:13	<b>application</b> 4:12,14 4:15 10:6,8,9,10,12 10:19,20,22 11:3,5 11:7 12:4,8 13:16 13:22 14:15 17:20 17:25 30:21 34:22 35:15,19 36:23 41:11,20 42:8,11,21	<b>attended</b> 10:16 53:22	
<b>agency</b> 26:25 37:19		<b>attorney</b> 3:14 58:6	
<b>agency/entity</b> 39:17		<b>attorneys</b> 58:15	
<b>al</b> 1:3,5,10,14,17 57:3 57:5,10,14,17		<b>August</b> 6:9	
		<b>Austin</b> 2:6 3:15,20,24 3:25 10:11 59:8,9	

SHERRI ZGABAY

6/9/2014

2

<b>bottom</b> 34:24 42:20 <b>Boulevard</b> 3:19 <b>box</b> 3:15 44:8,14 <b>Brady</b> 15:14 <b>Brazil</b> 3:9,9 4:4 5:5 33:2,5,7,10,11 35:2 43:16,20 54:13 58:11 <b>Brazos</b> 3:24 59:9 <b>break</b> 43:16 <b>burden</b> 53:18 <b>business</b> 9:13 <hr/> <b>C</b> <hr/> <b>C</b> 3:1 <b>call</b> 20:24 25:1 34:18 36:17 37:21 <b>Canada</b> 35:21 <b>capacity</b> 9:19 51:23 53:17 <b>capitol</b> 7:3,12,13,16 7:19 9:7 <b>car</b> 8:18 <b>card</b> 9:17,18,19,21 11:11 30:13 31:14 32:16 35:10 36:3,5 41:17,23 42:13 44:23 45:2,5,9,15 <b>cards</b> 9:11 20:24 30:3 36:8 42:6 53:11 <b>carries</b> 28:23 <b>carry</b> 12:14 20:17,25 21:4,19,21 <b>case</b> 21:9 25:24 30:12 43:25 <b>cases</b> 10:14 <b>categories</b> 23:5 31:23 42:24 <b>category</b> 21:13 23:12 24:19 25:5,9 43:2 43:10,15 <b>cause</b> 2:2 <b>center</b> 8:15 <b>Centre</b> 3:24 59:8 <b>certain</b> 7:15 14:25	23:2 24:16 34:5,6 41:18,24 51:15 <b>Certainly</b> 11:25 23:19 <b>certificate</b> 4:6 9:12 17:9,15 57:20 <b>certified</b> 17:9,15 25:20 49:5,6,20 57:23 <b>certify</b> 8:14 57:24 58:13 <b>change</b> 21:12 22:10 41:24 53:4 55:2,3,4 <b>changed</b> 21:11 <b>changes</b> 55:2,3 <b>charge</b> 48:2 <b>charged</b> 24:3,25 <b>charging</b> 47:4 <b>chart</b> 33:17 <b>check</b> 10:21 11:18 13:22 14:11,12,16 14:18,19,22 15:8,12 15:24 16:9,23 17:21 38:16 46:21 50:10 50:13,16 <b>checked</b> 14:8 <b>checks</b> 45:21 50:2,7 <b>child</b> 15:20,25 16:6 25:3,4 <b>CHL</b> 10:25 12:1,2,19 13:5,10,21,22 16:17 16:22 17:5,8,13 18:3,4,9,12,17 19:2 19:9,11,23 20:1,4 20:10,16 22:7 23:17 26:3,4,8,11,13,15 26:20 27:3,6,12,18 27:21 28:2,3,4,23 29:16 30:22 31:14 31:16,19,20 32:12 37:6 38:4,11 39:5 39:14 40:1,6,7,13 40:14 42:3,20,21,24 48:21 <b>CHLs</b> 21:24 38:24	<b>choose</b> 28:17 <b>CHRISTI</b> 1:2 57:2 <b>circumstances</b> 17:17 23:17,20 26:2,16 47:17 <b>citation</b> 26:18 <b>citizen</b> 13:1,9,19,23 14:2,5,17,20 18:12 18:22 19:3 50:23 51:2,2 <b>citizenship</b> 13:5,7 <b>civil</b> 1:4,11 2:7 3:4 24:10 57:4,11 <b>clarification</b> 44:17 46:6 <b>clarify</b> 20:6 <b>class</b> 10:16 24:3 48:21,23 49:3,3,4 <b>classes</b> 49:22 <b>clear</b> 18:24 <b>click</b> 37:3 <b>close</b> 25:6 <b>code</b> 23:9 32:1,2 41:1 <b>combine</b> 43:13 <b>combined</b> 30:6,8,9,10 <b>come</b> 24:24 29:15 37:15 <b>commissioned</b> 20:22 20:23 <b>commissioned/non...</b> 8:25 <b>COMMISSIONERS</b> 1:13 57:13 <b>companies</b> 7:9 <b>company</b> 8:19 <b>compare</b> 45:7,24 <b>compared</b> 31:17 <b>comparison</b> 45:6,16 46:1,3 <b>compilation</b> 47:21 <b>complete</b> 13:21 14:11 48:24 50:9,10 <b>completely</b> 21:2 <b>computer</b> 29:8 <b>concealed</b> 4:20 6:24	9:4 10:5,7 12:9,14 12:15 13:2 20:12,22 21:1,1,3,6 24:6 28:5 28:23 29:3,25 30:12 30:14,16 32:15 33:21,25 37:17 38:16 39:18 44:4 46:17,20 47:6,7,21 48:17,23,25 49:4 50:1,6,22,25 53:5 <b>concern</b> 53:15 54:1 <b>concluded</b> 54:18 <b>condition</b> 10:22 34:8 <b>conditions</b> 34:7 <b>conduct</b> 9:13 10:20 14:11 15:23 45:20 50:9 <b>conducted</b> 19:18 <b>conducting</b> 39:25 <b>conducts</b> 28:25 29:18 <b>confiscate</b> 26:10 <b>confiscating</b> 26:3 <b>confusing</b> 46:19 <b>constituents</b> 54:1 <b>contact</b> 37:15 38:14 <b>contain</b> 14:19 32:3 32:16 56:5 <b>contained</b> 15:5 <b>continuation</b> 4:13 36:22 <b>continue</b> 19:24,25 36:25 46:11 <b>controlled</b> 7:2 8:2,3,9 <b>conversation</b> 53:20 <b>conviction</b> 15:21 <b>coordinate</b> 54:7 <b>copy</b> 11:8 17:9,15,15 37:9 40:20 <b>CORPUS</b> 1:2 57:2 <b>correct</b> 11:19 12:25 13:12 14:7 16:14 17:6 19:8 21:17,23 24:20 32:23,25 34:25 35:2,11 36:10 36:15,16,21 37:3,20
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SHERRI ZGABAY

6/9/2014

3

39:9,10,11 40:3 42:6,9,10 43:3,6,8 44:5 46:24,25 47:15 48:8,20 50:15,23,24 51:17,19,25 52:23 56:5 <b>correction</b> 55:4 56:8 <b>corrections</b> 55:1 56:7 <b>correctly</b> 32:7 47:25 <b>correspondence</b> 27:9 <b>cost</b> 34:10 49:9 52:19 <b>costs</b> 49:11 <b>counsel</b> 58:13 <b>counter</b> 44:11 <b>counties</b> 38:4,24 39:2 41:6 <b>country</b> 13:8,17 19:5 36:7 <b>county</b> 1:13,13 23:9 24:17 32:1,1 38:10 40:13 51:21 57:13 57:13,21 <b>county's</b> 39:24 <b>couple</b> 5:17 22:11 <b>course</b> 17:20,25 24:15 38:14 49:6 <b>courses</b> 49:8 <b>court</b> 1:1 5:20 8:17 24:17 57:1 <b>CPS</b> 50:2 <b>crafted</b> 30:19 <b>Creek</b> 3:10 <b>criminal</b> 15:10,12,20 15:22 16:9,13 27:17 27:19 39:17 <b>criteria</b> 4:19 23:3,25 24:1 37:17 41:19 <b>CSR</b> 2:4 3:23 59:7 <b>current</b> 6:18,19 42:21,22 44:19 <b>currently</b> 6:3,17 12:9 22:6 31:4 41:6,9 44:22 <b>customer</b> 7:20 33:24 35:13	<b>customers</b> 33:18 53:10 <b>cycle</b> 19:12 <b>Cypress</b> 3:10 <hr/> <b>D</b> <b>DAR</b> 11:9 <b>data</b> 35:13 45:20 <b>database</b> 16:13 21:24 22:1,3,4 23:1,2 28:22 31:16,17,19 39:4,5 40:2 <b>databases</b> 32:19 <b>date</b> 29:21 59:7,10 <b>date-specific</b> 45:11 <b>day</b> 59:2 <b>days</b> 24:9 31:3,4,9 <b>DC</b> 3:6 <b>DECHERT</b> 2:6 <b>Defendants</b> 1:6,17 3:13 57:6,17 <b>defer</b> 54:6 <b>defined</b> 20:23 <b>delay</b> 31:11 <b>delinquent</b> 15:19,19 25:3,4 <b>deliver</b> 44:7 <b>delivered</b> 10:10 <b>denial</b> 14:14 <b>department</b> 3:4,19 6:5,11,16,22 10:11 10:19 22:1 23:23 25:21 27:10,13 31:2 37:14 38:1,11 40:17 41:16,23 48:1 49:6 49:11,13 <b>dependent</b> 15:3 <b>depending</b> 10:13 25:12 <b>deposition</b> 1:21,25 5:12,13 58:3,4,10 <b>DESCRIPTION</b> 4:9 <b>design</b> 52:8 <b>designate</b> 36:19 <b>designated</b> 7:17 21:8	49:1 <b>detectors</b> 7:24 <b>determine</b> 14:3,13 32:11,15 45:16 46:22 52:15 <b>determined</b> 52:25 <b>develop</b> 52:8 53:9 <b>development</b> 52:1 53:23 54:5 <b>device</b> 8:16,19,21 <b>difference</b> 12:4,7 21:7 25:9 <b>different</b> 6:15,21 7:20 10:13 21:1,2 23:11,19 25:25 30:17 33:20,21,23 37:2,2,4 49:11,23 53:2 <b>digital</b> 51:24 53:17 <b>direction</b> 45:19 <b>discounts</b> 33:23 <b>discussing</b> 47:10 <b>dispense</b> 8:7 <b>display</b> 20:20 <b>disposition</b> 25:16 28:3,10 <b>distinction</b> 51:1 <b>distribute</b> 8:8 <b>DISTRICT</b> 1:1,1 57:1,1 <b>division</b> 1:2 3:4 6:14 57:2 <b>DL</b> 45:2,3 46:14 <b>document</b> 9:25 33:16 33:17 47:19 <b>documentation</b> 4:17 13:20 30:17 37:13 44:15 <b>documents</b> 10:13 11:16 13:13 17:18 <b>doing</b> 14:17 <b>downloadable</b> 37:24 <b>DPS</b> 8:18 9:8 13:14 14:6 15:7 16:10 17:14 21:25 26:7	27:1,3 28:2,14 30:22 36:12 38:3,8 38:23 39:3 43:12 45:16 46:9 49:3 50:6,13 54:4 <b>driver</b> 29:6,20,22 32:4,5,16 44:23 45:1,4,8,15 <b>driver's</b> 17:5 19:21 22:4,13 28:24 29:5 29:11,15 30:15 31:17,20,24 32:13 32:21 35:10,16,20 36:25 37:1 39:4 42:12 46:9,11,23 <b>drop</b> 44:8,10,14 <b>dual</b> 23:12 <b>duly</b> 2:1 5:3 58:1 <b>DUNN</b> 3:9 <b>DWI</b> 8:18 24:2,4 <hr/> <b>E</b> <b>E</b> 3:1,1 56:1,1 <b>earlier</b> 31:22 44:4 50:20 51:14 <b>EDUCATION</b> 1:9 57:9 <b>effect</b> 27:8 <b>effective</b> 40:21 <b>either</b> 10:9 13:6,9 14:23 21:7,20,22 27:1 34:8 <b>election</b> 39:24 <b>elections</b> 40:1 <b>electronic</b> 10:21 41:3 41:5,7,20,21 51:24 53:17 <b>electronically</b> 41:15 53:12 <b>elements</b> 25:24 <b>eligible</b> 51:15,20 <b>employed</b> 6:3,10 58:14 <b>enforcement</b> 4:16 23:22,22 26:3,10,25
---	--	--	--





SHERRI ZGABAY

6/9/2014

5

<b>history</b> 15:11,12 16:9 <b>hold</b> 4:20 12:1,5 22:7 22:13 36:25 37:17 45:3 <b>holder</b> 29:4 <b>holders</b> 31:20,20 32:12 <b>holds</b> 12:9 44:22 46:8 <b>honest</b> 24:23 40:10 52:16 <b>honestly</b> 54:6 <b>House</b> 4:21 40:20,23 40:25 41:18 <b>Houston</b> 3:11 <b>Huh</b> 33:5	14:20,22 16:23 31:19 51:1 55:2 <b>indicates</b> 13:18 14:5 <b>indigence</b> 34:9 <b>indigent</b> 47:23 48:12 <b>individual</b> 4:19 10:12 12:9 13:6,7,16,18 14:2 15:18 16:18,19 17:19 18:4 23:24 24:5,13,14 25:20 26:15 27:9,11,15 28:4,8 29:25 32:2 34:11 37:16,19 38:15 44:9,12,13,14 45:10 46:7,8,20 47:18 49:25 50:5,21 51:2 53:15 <b>individuals</b> 7:18 10:8 10:21 16:2 20:25 21:3 22:7,13 32:4 38:4 40:10 41:1,13 41:19,22,25 45:18 45:19 46:4,16 51:15 51:15,20 53:18 <b>industry</b> 9:2 <b>information</b> 11:4 13:17,23 14:5,13,19 15:1,8,13 17:19,22 29:19,23,24 30:17 30:24 31:6 35:13,14 35:18 37:5 38:3,8 38:13,20,24 39:3,7 39:16,18,20,20,22 40:16 45:20 46:6,13 48:14 52:13 53:21 <b>initial</b> 19:11 48:24 50:14,17 <b>initiate</b> 4:18 37:14 38:1 <b>initiated</b> 24:14 <b>initiating</b> 25:21 28:6 <b>ink</b> 41:17 42:6 <b>install</b> 8:19,20 <b>installed</b> 8:18 <b>installers</b> 8:25	<b>installs</b> 8:16 <b>instance</b> 2:1 <b>instructed</b> 27:9 <b>instruction</b> 37:22 <b>instructions</b> 4:16 37:12 <b>instructors</b> 49:5,20 49:22 <b>interested</b> 58:17 <b>interface</b> 32:19 <b>interlock</b> 6:25 7:2 8:10,16 <b>Intervenors</b> 1:11,15 57:11,15 <b>introduction</b> 4:13 36:22 <b>introductory</b> 34:19 <b>investigation</b> 30:25 <b>investigator</b> 8:24 <b>investigator's</b> 8:23 <b>investigators</b> 20:15 <b>involved</b> 52:1 54:4 <b>Islander</b> 43:4 <b>issuance</b> 48:25 53:5 <b>issue</b> 9:8 30:22 31:2 <b>issued</b> 9:11,12 20:14 26:19 30:13 36:6 45:15 <b>issuing</b> 42:13 <b>items</b> 17:24	<b>K</b> 3:9 <b>Kathleen</b> 3:18 <b>kathleen.murphy...</b> 3:21 <b>keep</b> 27:23 <b>Keister</b> 3:14 43:18 51:9 54:15 58:12 <b>Kim</b> 2:4 3:23 57:23 59:7 <b>kind</b> 22:22 38:8 44:21 46:21 <b>know</b> 10:2 14:9 16:24 16:25,25 17:1,3 22:6,14,16,23,24 26:21,22 28:20 29:8 30:9,10,18,19 32:14 32:21 34:23 37:10 38:11 39:8,8 40:5,7 40:13,16 43:9,11,12 44:12 45:7 48:11 49:8,10,12,19,19 53:4,23 54:4 <b>knowledge</b> 9:22 <b>known</b> 21:15 41:12 <b>KS</b> 56:14 59:12
<hr/> <b>I</b>			<hr/> <b>L</b>
<b>ID</b> 9:23 10:1 32:16 36:24 42:13 45:2,3 45:9 46:9,12,14,23 <b>identification</b> 9:11,17 9:25 11:9 31:14 35:10 36:3,5,8 44:23 45:5,14 <b>identifications</b> 46:10 <b>Identifiers</b> 42:15,25 <b>identify</b> 33:14 46:3 <b>IDs</b> 9:8 <b>ignition</b> 6:25 7:2 8:10 8:11,16 <b>image</b> 45:13 <b>impact</b> 52:9,14,18,22 52:25 53:1,3,7,7,8 53:13 <b>in-person</b> 44:8,11 <b>include</b> 8:24 45:21 <b>included</b> 28:15 <b>includes</b> 15:12 <b>including</b> 14:12 15:3 18:14 <b>income</b> 34:5 <b>incoming</b> 6:21 <b>INDEX</b> 4:1 <b>Indian</b> 43:5 <b>indicate</b> 13:24 14:4		<hr/> <b>J</b>	<b>L</b> 3:3 <b>Lamar</b> 3:19 <b>laminated</b> 9:21 <b>languages</b> 49:15,18 49:23,24 <b>law</b> 2:5 4:16 16:18 26:3,10,25 37:12,18 38:7,15 39:12 42:3 <b>lawfully</b> 50:21 <b>laws</b> 21:2,3 <b>LEAGUE</b> 1:9 57:9 <b>left</b> 42:20 <b>legal</b> 3:23 18:22 19:3 19:4,6 39:21 58:7 59:8 <b>legally</b> 13:8,10 19:5 22:19 <b>legislation</b> 21:13 52:2
		<hr/> <b>K</b>	

SHERRI ZGABAY

6/9/2014

6

<p>54:5  <b>legislative</b> 54:8  <b>legislator</b> 53:20  <b>legislators</b> 53:14  <b>let's</b> 10:4 16:15,21  33:3 43:16  <b>letter</b> 24:7 27:1 28:13  28:15  <b>level</b> 34:5,6,12  <b>license</b> 4:20 7:22 8:2  8:12,20,23 10:7  11:9 12:9,15 13:2  17:5 19:21 20:13,19  21:6 22:4,13 24:6,8  25:18 27:10,23 28:5  28:9,18,21,24 29:5  29:6,11,12,15,20,22  30:1,16,16 31:3,17  31:20 32:5,5,13,16  32:21 33:22,25  35:10,16,20,22  36:25 37:1,17 38:16  39:4,18 42:13 44:5  44:23 45:1,5,8,15  46:9,12,21,23 47:6  47:8,21 48:22,25  50:2,6,22,25  <b>licensed</b> 7:10 9:2  29:3  <b>licenses</b> 8:19 31:24  32:15 33:21 46:17  48:18  <b>licensing</b> 6:4,20  52:11  <b>licensure</b> 6:22  <b>lifetime</b> 5:13  <b>likeness</b> 45:10,13,17  46:4  <b>limited</b> 9:19 26:16  38:21 39:16  <b>line</b> 7:18,20 55:2  <b>lines</b> 7:24  <b>listed</b> 34:10  <b>listing</b> 13:25  <b>literal</b> 47:24</p>	<p><b>literally</b> 47:25  <b>little</b> 46:19  <b>lives</b> 32:3  <b>LLP</b> 2:6 3:9  <b>local</b> 26:10  <b>location</b> 40:7 41:14  <b>locations</b> 54:2  <b>locksmiths</b> 9:1  <b>long</b> 6:7 19:9 25:12  30:21  <b>longer</b> 4:19 7:24  21:15 37:16  <b>look</b> 36:20 51:4  <b>looking</b> 51:19  <b>Louisiana</b> 11:2</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>ma'am</b> 44:2,6,18  47:1,11,16,20 48:9  48:14,19 49:4 50:9  50:15,19 51:3,11,18  51:25 52:3 54:12  <b>machine</b> 2:5  <b>mail</b> 25:21 44:5,7,10  <b>mailed</b> 10:10  <b>maintained</b> 16:10  44:25  <b>maintains</b> 21:24 22:1  <b>manager</b> 6:4,19  <b>mandated</b> 23:6  <b>manner</b> 21:2 30:20  41:3 50:11  <b>manufacture</b> 8:8  <b>Maranzano</b> 3:3 4:5  35:1 43:23,24 51:7  51:10,13 58:11  <b>MARC</b> 1:3 57:3  <b>mark</b> 33:8  <b>marked</b> 5:1 33:12  40:18 42:7  <b>matter</b> 27:2  <b>mean</b> 7:12 20:6 27:17  27:22 32:20 38:19  <b>means</b> 18:21 25:18  39:15 52:6,7</p>	<p><b>meant</b> 36:3  <b>medical</b> 16:5,6  <b>meet</b> 13:14,15 18:6  18:18 41:19  <b>meeting</b> 31:4  <b>meets</b> 4:19 16:19  18:13 23:24,25  37:16  <b>member</b> 20:10,16  21:5  <b>memory</b> 25:8  <b>mentioned</b> 9:10  51:14  <b>merge</b> 32:24  <b>merged</b> 31:16  <b>metal</b> 7:6,10,24 9:7,7  <b>metals</b> 7:3,5,7,9  <b>method</b> 40:15  <b>Mexico</b> 11:25 12:1,6  12:14,19,20,23  35:23  <b>miles</b> 53:16  <b>military</b> 16:20  <b>min</b> 58:11,11  <b>mind</b> 24:24  <b>minimal</b> 53:12  <b>misdemeanor</b> 24:4  <b>misrepresent</b> 14:8  <b>misrepresentation</b>  14:13  <b>move</b> 12:18 18:24  <b>Murphy-Darveau</b>  3:18  <b>myriad</b> 9:1</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>N</b> 3:1 56:1,1  <b>name</b> 5:8,9,10 11:23  29:13,14,15,21  <b>Native</b> 43:5  <b>nature</b> 5:14 42:13  <b>navigate</b> 35:15  <b>necessarily</b> 15:21  31:21  <b>necessary</b> 17:22</p>	<p><b>need</b> 8:12 12:20  13:14 17:4 35:2,16  <b>neither</b> 54:13 58:13  <b>never</b> 16:22 17:23  <b>new</b> 11:25 12:1,6,14  12:19,20,23 21:12  46:15  <b>nod</b> 5:22  <b>Nods</b> 35:24  <b>non-semi-auto</b> 21:14  <b>non-Texas</b> 22:15,16  <b>noncitizen</b> 18:8,10  <b>noncriminal</b> 16:7  <b>nonresident</b> 18:8,10  <b>normal</b> 17:25  <b>normally</b> 40:1  <b>North</b> 3:19  <b>Nos</b> 5:1  <b>noted</b> 42:19,25 56:8  <b>notes</b> 52:16  <b>notice</b> 24:12 25:17,19  <b>noticed</b> 42:15  <b>notification</b> 23:24  <b>notified</b> 25:20 31:10  <b>number</b> 4:9 6:15  22:9 23:19 24:9  29:11,12,20 32:16  32:17,17 37:8,21  42:18 55:2,2 57:4  <b>numbered</b> 2:2  <b>numbers</b> 22:14 30:2  32:18 49:12  <b>NW</b> 3:5  <b>NWB</b> 3:5</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O</b> 56:1  <b>obtain</b> 10:6 13:10  15:7 16:17 17:22  18:3,4,17 19:2 20:1  31:14 48:22  <b>obtained</b> 15:1,2  <b>obviously</b> 9:3 41:1  <b>occasion</b> 36:6  <b>occurred</b> 27:22</p>
---	---	---	--

SHERRI ZGABAY

6/9/2014

7

<b>offense</b> 24:25 <b>offer</b> 49:22 <b>offered</b> 49:15 <b>office</b> 3:14 26:7 39:25 59:1 <b>officer</b> 4:17 26:3,9,10 26:13,14,19 28:21 28:25 29:2,17,18,24 37:13,15,25 58:2 <b>offices</b> 2:5 <b>official</b> 39:24 40:13 52:18 <b>oh</b> 37:11 51:7 <b>okay</b> 6:17 7:12 8:2,22 9:3,15 10:4,17 11:12,20 12:1,13,17 12:23 13:1,9,13,21 14:4,16,22 15:6,25 16:6,12,15,21 17:2 17:4,7 18:21,24 19:9,13 20:4 21:5 21:18 22:6,12 26:1 26:18,23 27:5,17,21 28:16,20 29:14 30:2 30:5 31:13,22 32:9 33:1,10,13 34:1,4 34:14,23 35:1,5,23 36:11,11,24 37:6 38:7,17,18,23 39:2 40:18,19 41:5,24 42:3,7,12 43:7,18 44:1,3,16 46:18 47:3,9 48:6,16 49:25 51:11,13 53:1 54:9,10,14,15 <b>old</b> 16:16 <b>old-fashioned</b> 41:25 42:5 <b>on-line</b> 4:12,14 10:9 19:14,24,25 23:16 33:18 34:21 35:15 35:18 36:22 44:5,7 <b>once</b> 21:16 27:7 30:21 <b>ones</b> 24:24	<b>open</b> 39:19 <b>operational</b> 53:13 <b>opportunity</b> 24:14 25:22 41:2 <b>opposed</b> 41:16 53:11 <b>oral</b> 1:21,25 58:2 <b>order</b> 53:10 <b>orders</b> 8:17 <b>organizations</b> 39:13 <b>original</b> 31:3 50:11 <b>originally</b> 42:3 <b>out-of-state</b> 11:6,8,9 32:5,17 37:5 45:4 <b>outcome</b> 25:16 28:7 58:17 <b>outlined</b> 23:25 41:19 <b>outside</b> 38:7 <hr/> <b>P</b> <hr/> <b>P</b> 3:1,1 <b>p.m</b> 2:3,3 43:19,19 54:18 <b>P.O</b> 3:15 <b>Pacific</b> 43:4 <b>page</b> 4:6,9,12 34:19 34:19,20,24 35:15 36:14,17,19,21 37:2 37:4 55:2,3 <b>PAGE/LINE</b> 55:4 <b>pages</b> 36:14,14 56:5 <b>pages(s)</b> 56:8 <b>pains</b> 56:4 <b>paper</b> 9:12 10:9 34:2 42:4 55:2 <b>paperwork</b> 44:12 <b>Parkway</b> 3:10 <b>part</b> 10:18,22 19:19 23:8 27:5 38:17 47:3,4 <b>particular</b> 6:8 7:18 9:2 10:14 24:25 33:16 41:17 <b>parties</b> 58:14 <b>parts</b> 44:21 <b>party</b> 58:9	<b>pass</b> 7:3 43:17,20 <b>passed</b> 21:13 42:4 48:13 <b>passport</b> 17:10,16 <b>passport-style</b> 11:10 45:6,13 <b>pay</b> 47:5,18 48:12 <b>payment</b> 15:20 <b>peace</b> 24:17 <b>penalties</b> 56:4 <b>penalty</b> 27:18,20 <b>pending</b> 25:15 28:7 <b>Pennsylvania</b> 3:5 <b>people</b> 41:7 48:12 <b>percentage</b> 22:21 <b>period</b> 12:24 19:16 31:7 <b>perjury</b> 56:4 <b>PERRY</b> 1:5 57:5 <b>person</b> 14:20 16:24 18:13 19:17,19 24:3 24:18 25:22 26:16 28:6,23 29:3,23 31:10 44:4,5,6 45:8 47:1 <b>person's</b> 29:19 <b>personal</b> 31:13 42:15 42:25 46:9,23 <b>persons</b> 9:9 <b>Pharmacies</b> 8:6 <b>pharmacy</b> 8:5 <b>phone</b> 34:24 <b>photo</b> 9:8,11,13,16 9:16,20,23 44:25 45:8,11,12,13 46:11 46:12,22,24 <b>photograph</b> 45:2,14 45:22,25 46:1,10,13 <b>photographs</b> 44:20 44:24 45:17,24 46:16 47:1 <b>photos</b> 11:10 45:6,7 <b>physical</b> 26:4 <b>physically</b> 44:13 <b>physicians</b> 8:6	<b>place</b> 13:25 14:3,4 40:5 44:14 48:16 56:6 <b>places</b> 40:10 <b>Plaintiff</b> 1:8,11,14 3:3 57:8,11,14 <b>Plaintiffs</b> 1:3 2:1 3:8 57:3 <b>plane</b> 10:1,3 <b>please</b> 5:8 17:12 28:17 33:14 35:12 55:2,3 <b>pocket</b> 9:19 20:24 <b>point</b> 31:16 41:15 <b>poling</b> 40:5,6,10 <b>population</b> 51:22 <b>portions</b> 42:11 <b>position</b> 6:7,8,18,19 <b>positions</b> 6:16 <b>possess</b> 16:3 18:6,7 18:15,17,20 <b>possessing</b> 18:19 <b>possession</b> 15:13 26:4 26:11,13,19 27:24 <b>potentially</b> 38:1 <b>poverty</b> 34:6,12 <b>practice</b> 24:10 <b>prescriptions</b> 8:8 <b>PRESENT</b> 3:18 <b>primary</b> 15:9,10 <b>prior</b> 48:24 <b>privacy</b> 39:19 <b>private</b> 6:24 8:22,23 8:24 9:14,15 20:15 20:15,21,23 39:3,8 39:10,13 <b>Probably</b> 26:24 <b>problem</b> 31:10 43:18 <b>procedural</b> 52:20 53:3,8 <b>procedure</b> 2:7 25:19 25:23 51:16,21 <b>procedures</b> 53:5 <b>proceeding</b> 5:15 58:15
--	--	---	---

SHERRI ZGABAY

6/9/2014

8

<b>Proceedings</b> 54:18 <b>process</b> 4:14 5:18 6:21 10:5,6,8,19,23 11:3,5,7 12:5,8,18 27:5 30:5,7 34:21 36:23 40:9 44:8 45:22 46:15 47:2 49:21 51:24 53:17 <b>produce</b> 23:8,11 32:4 32:6 <b>produced</b> 1:25 9:20 23:14 <b>production</b> 11:11 <b>professionals</b> 9:1 <b>program</b> 7:17 <b>programs</b> 9:10 <b>prompted</b> 53:23,25 <b>proof</b> 10:15 13:4,7,7 13:13 <b>provide</b> 10:13,15 11:8 13:6,17 17:8 17:14 30:11 35:12 35:14 37:5 38:23 44:13 49:5 <b>provided</b> 17:19 18:5 18:13,18 29:23,24 39:17 40:17 <b>provides</b> 27:13 30:12 31:8 <b>provisions</b> 2:8 <b>psychiatric</b> 16:4 <b>public</b> 3:19 6:6,11 20:5,10,16 21:5 23:15 39:23 49:6 <b>purchase</b> 7:10 15:13 <b>pursuant</b> 2:7 <b>put</b> 29:14,14 <b>putting</b> 52:12	21:20 <b>query</b> 32:14 <b>question</b> 5:19,20 14:1 15:6 17:11 19:19 26:5 32:7,10 38:17 46:5,19 50:4 <b>questions</b> 5:24 44:1 <b>quick</b> 36:18 <b>quite</b> 24:23 40:9	33:17 34:8 47:12 <b>referring</b> 21:14 <b>reflected</b> 47:19 <b>reflects</b> 47:14 <b>refresh</b> 25:8 <b>register</b> 40:12 <b>registrar's</b> 39:25 <b>registration</b> 6:5 7:3,5 7:9 12:18 59:10 <b>registrations</b> 20:24 <b>regular</b> 38:24 48:6 <b>regulate</b> 49:13 <b>regulated</b> 49:10,14 <b>regulates</b> 6:22 <b>regulation</b> 9:7 <b>related</b> 15:22 58:14 <b>relations</b> 54:7 <b>relevant</b> 15:13 <b>remember</b> 19:22 21:8 <b>remind</b> 5:18 <b>renew</b> 19:24,25 46:16 50:1,5 <b>renewal</b> 19:12,13,16 19:18 47:2 50:8,14 50:18 <b>renewals</b> 19:22 20:2 31:3 <b>renews</b> 46:20 <b>Repeat</b> 22:20 26:5 <b>rephrase</b> 6:1 52:18 <b>report</b> 23:13 <b>reported</b> 2:5 3:22 <b>reporter</b> 5:20 33:4,6 33:8 51:5 54:17 57:23 <b>Reporter's</b> 4:6 57:20 <b>reports</b> 23:8,10,11,14 32:3,6 <b>represent</b> 43:24 <b>representation</b> 45:10 <b>represents</b> 33:23 <b>request</b> 24:15 25:22 27:2,6,21 28:12,17 41:20	<b>requests</b> 28:6,14 <b>require</b> 13:6 28:11 30:16 31:1 39:21 45:12 53:4 <b>required</b> 10:15,17 11:4,12 13:23 14:6 15:23 17:21 24:12 28:9 30:25 31:2,6 44:9,23 48:21,23 53:8 <b>requirement</b> 13:4,15 17:7,14 23:9 35:9 41:6 44:19 45:11 <b>requirements</b> 13:14 16:4 18:14,18 31:5 41:10 <b>requires</b> 16:18 <b>requiring</b> 53:15 <b>rerun</b> 50:2 <b>reserve</b> 54:15 <b>reside</b> 51:21,22 <b>residence</b> 32:1,2 <b>resident</b> 10:24 11:2,6 11:7 18:1,11,22 19:3,4 <b>residents</b> 22:15,17 <b>resides</b> 24:18 <b>resource</b> 52:3,3,5,7 52:13,22 <b>responses</b> 5:21 54:8 <b>responsibilities</b> 6:20 <b>responsible</b> 49:21 52:9,10,11 <b>restate</b> 17:11 50:4 <b>restricted</b> 7:15,16 <b>result</b> 8:18 24:21 26:2 <b>return</b> 27:6,10,12,21 28:2,4,9 29:2 58:7 <b>returned</b> 27:3 <b>returning</b> 27:18 <b>review</b> 31:2 <b>revocation</b> 4:18 23:21 25:5,6,11,14 25:17,20,21 27:2,8
<b>Q</b>	<b>R</b>		
<b>qualification</b> 24:1 <b>qualifications</b> 18:6 <b>qualified</b> 16:3 18:7 18:14,19,21 21:19 <b>qualify</b> 20:8 21:16,16	<b>R</b> 3:1 56:1 <b>race</b> 23:4,10 31:25 42:24 43:15 <b>races</b> 43:13 <b>radius</b> 51:23 <b>range</b> 49:11 <b>rare</b> 36:6 <b>read</b> 54:16 <b>readily</b> 39:23 48:15 54:3 <b>really</b> 14:25 15:4 44:21 <b>reason</b> 5:25 30:10 31:11 37:9 55:2,4 <b>reasons</b> 25:2 56:7 <b>recall</b> 27:16 47:25 53:19 <b>receipt</b> 10:19 <b>receive</b> 7:22 9:16,18 10:24 29:2 33:24 38:8 46:1 <b>received</b> 30:22 <b>receives</b> 21:6 <b>Recess</b> 43:19 <b>reciprocity</b> 11:20,22 12:13 <b>recognize</b> 41:16 <b>record</b> 2:8 54:17 58:3 <b>records</b> 15:4 39:19 <b>recycled</b> 7:10 <b>reduced</b> 34:10,11 47:13,14,18,22 <b>reference</b> 24:11 <b>referenced</b> 9:18		



SHERRI ZGABAY

6/9/2014

9

37:6,14,23 38:2 <b>revoked</b> 23:18 25:18 26:20 38:4,12 40:7 <b>revolver</b> 20:9 21:7,15 21:19,21 <b>RICK</b> 1:5 57:5 <b>right</b> 5:17 9:6 10:4 12:11 18:1,11 20:14 20:19 29:10 33:15 35:7 38:3 39:7 52:24 <b>Rights</b> 3:4 <b>role</b> 8:14 <b>roles</b> 52:21 <b>rolled</b> 41:17 42:6 <b>Ronald</b> 3:14 58:12 <b>ronny.keister@oag...</b> 3:16 <b>Room</b> 3:5 <b>RPR</b> 3:23 <b>rule</b> 34:9 49:14 <b>rules</b> 2:7 5:17 24:10 41:9 <b>run</b> 32:11 49:3 50:6 <b>runs</b> 28:21 29:19 <b>rural</b> 54:2	<b>searchable</b> 23:1,2 <b>secondary</b> 15:10,15 15:17 <b>security</b> 6:24 7:25 8:1,22 9:14,16 20:15,21,23 <b>see</b> 14:16 33:3 34:20 37:7 44:16 46:3 52:14 <b>Seibert</b> 2:4 3:23 57:23 59:7 <b>semi-auto</b> 21:14 <b>semiautomatic</b> 21:21 <b>send</b> 27:1 38:3,13 <b>sent</b> 24:7 <b>separate</b> 22:3,3 30:2 30:3 37:3 47:5,7 <b>September</b> 40:21 <b>service</b> 6:5 8:15 <b>Services</b> 41:11 <b>set</b> 34:12 47:23,25 48:7,9 <b>sex</b> 23:9 31:25 <b>shake</b> 36:1 <b>sheet</b> 55:2 <b>Sheriff's</b> 38:11 <b>Sherri</b> 1:22,25 4:3 5:2,9 55:25 56:3,12 58:1 <b>short</b> 43:16 <b>shorthand</b> 2:5 57:23 <b>show</b> 13:14 26:8 28:22 33:11 34:14 42:7 <b>sign</b> 53:10 54:16 55:3 <b>signature</b> 4:6 55:1 58:7 <b>similar</b> 11:6 25:24 <b>sir</b> 6:15 7:14 8:6 9:5 10:18 11:1,14,19 12:7,22 13:3 16:11 19:15 20:3 21:9 22:2,25 24:10 30:4 31:8,18,21 34:15,17 35:19 38:9,22 39:6	42:2,14,23 43:1,15 <b>situation</b> 10:14 26:12 <b>Sixth</b> 2:6 <b>skip</b> 7:25 <b>slightly</b> 25:24 <b>snapshot</b> 36:11 <b>solemnly</b> 56:3 <b>somebody</b> 29:21 <b>sorry</b> 7:1 17:11 22:20 35:8 36:1 37:11 51:10 <b>sort</b> 9:11 17:10,16 19:7 52:24 <b>sounds</b> 33:7 <b>sources</b> 15:2,3,7,9,16 15:17 <b>SOUTHERN</b> 1:1 57:1 <b>speak</b> 15:4 25:7 <b>speaking</b> 36:7 44:13 <b>special</b> 34:8 <b>specific</b> 14:1 16:4 17:7,18 21:3 22:9 23:24 25:9,11,14 26:24 28:19 32:3 34:7 43:15 45:23 49:12 52:10 53:9,20 54:1,1 <b>specifically</b> 7:17 15:5 15:23 25:2 26:14,16 30:12,13 32:6 34:10 38:14 39:16,19 45:20 48:3 49:1,19 49:24 52:8 53:19 <b>spell</b> 5:10 <b>spoke</b> 9:7 23:7 29:2 <b>staff</b> 45:19 <b>standard</b> 24:10 48:2 48:4,7,9,12 <b>state</b> 1:17 2:4 5:8 7:11 11:23 12:10 16:23 35:17 36:4 37:1 42:13 45:9,15 57:17,21,24 <b>state-issued</b> 36:4,5,8	<b>stated</b> 2:8 18:5 56:7 <b>states</b> 1:1,7 3:3 11:21 11:22 13:25 18:16 22:18,22 43:25 50:21 57:1,7 <b>statistical</b> 23:7 <b>status</b> 38:16 40:14 <b>statutes</b> 40:16 <b>statute</b> 7:17 20:23 23:25 25:8 26:14 27:13 30:11,19 31:1 31:8 34:9,10 39:15 41:18 47:23,24,25 48:1,7,10,11 49:2 49:14 <b>statutorily</b> 23:6 24:12 <b>statutory</b> 23:9 31:4 38:22 <b>stays</b> 28:7 <b>stop</b> 5:25 26:12,25 28:20 29:1,19 <b>stopped</b> 26:6 29:24 38:10 <b>Street</b> 2:6 <b>strike</b> 26:1 28:11 <b>student</b> 18:2,2,5 22:23 <b>subject</b> 24:5 39:19 <b>submission</b> 41:4,5,7 41:10,12,21 <b>submit</b> 10:9,21 11:13 11:14 13:4 24:12 37:25 41:2,25 44:9 44:12,24 51:16 53:11 <b>submits</b> 44:20 <b>submitted</b> 41:15,22 42:4 45:7,12 58:5 <b>submitting</b> 4:17 37:13 53:11 <b>subpoenaed</b> 39:21 <b>substance</b> 8:2 <b>substances</b> 7:3 8:3,9 <b>Suite</b> 2:6 3:10,24
<hr/> <b>S</b> <b>S</b> 3:1,14 56:1,1,1 <b>safely</b> 16:3 <b>Safety</b> 3:19 6:6,12 49:7 <b>sale</b> 15:13 <b>saying</b> 21:20 <b>says</b> 24:8 26:14 35:9 35:12 39:16 48:1,3 48:3 <b>scenario</b> 10:14 29:1 <b>Scott</b> 3:9 5:25 58:11 <b>scott@brazilanddu...</b> 3:12 <b>screen</b> 29:15 <b>se</b> 44:11 <b>SEAL</b> 59:1 <b>search</b> 23:4,5 32:11			

SHERRI ZGABAY

6/9/2014

10

59:9 <b>support</b> 3:23 15:20 15:25 16:6 25:3,4 58:7 59:8 <b>supporting</b> 11:16 <b>sure</b> 17:13 19:1 26:6 28:1 46:18 <b>surrender</b> 26:15 28:5 28:9,18 <b>suspended</b> 23:18 24:1,8,8 38:5,12 40:8 <b>suspension</b> 23:20,21 24:5,13,19,22,23 25:6,10,15 26:21 27:2,8,23 28:13 <b>swear</b> 56:3 <b>sworn</b> 2:1 5:3 58:1 <b>system</b> 32:14	<b>testified</b> 5:3 44:3 50:20 <b>testimony</b> 52:4 53:22 56:6 58:3 <b>Texas</b> 1:1,9,12,17 2:4 2:7 3:11,14,15,19 3:20,25 6:5 7:11 10:5,7,24,25 11:7 11:20 12:2,14,18,19 12:21 13:2,11 15:11 15:18 16:10,16,22 17:4,5,14 18:11 19:2 21:25 22:7,13 29:4 30:1 31:13,20 31:24 32:4,12,16,16 32:21 36:9,24,24 41:11 44:22 45:2,3 46:8,9,14,23 57:1,9 57:12,17,21,24 59:7 59:9 <b>Thank</b> 43:20 44:16 54:11,13 <b>therefor</b> 56:8 <b>things</b> 15:22 16:5 17:24 23:3 42:13 <b>think</b> 14:24 15:25 16:7,8 46:18 47:13 54:9 <b>thinking</b> 17:3 <b>thought</b> 31:22 52:21 <b>time</b> 17:12 19:16 22:20 26:5,6,8,9,18 27:25 28:1,2 29:22 31:7 32:18 48:17 50:4,7,8 54:11,16 56:6 58:9 <b>timeframe</b> 19:20 24:16 25:11,14 28:19 30:23 <b>today</b> 13:21 <b>top</b> 16:8 22:9 24:23 25:1 27:16 35:9 37:7,21 48:15 <b>traffic</b> 26:7,12,18 28:20,25 29:19	<b>training</b> 10:16 45:23 46:1 <b>transcript</b> 56:5 58:2 58:4 <b>transfer</b> 12:20 <b>travel</b> 53:15 <b>TRAVIS</b> 57:21 <b>trial</b> 54:16 <b>trooper</b> 26:9 <b>trouble</b> 16:22 <b>true</b> 56:5 58:3 <b>truly</b> 17:18 <b>turn</b> 25:7 <b>two</b> 11:10 15:9,10 25:10 32:19,24 36:14 42:6 43:13 44:21 45:6,17 46:4 53:2 <b>type</b> 7:21 9:17 20:4 20:11,12 21:13 23:21 29:9 33:22 36:4 52:12 <b>types</b> 6:22 15:22 16:5 17:18,19 21:8 24:21 30:17 33:20,21	<b>use</b> 9:22 10:2 11:10 31:13 39:9 40:13 41:7 46:14 <b>utilize</b> 41:11 44:25 45:1 <b>utilized</b> 46:24 <b>utilizing</b> 46:10
<hr/> <b>T</b> <hr/> <b>T</b> 3:18 56:1,1 <b>table</b> 4:11 33:16 47:10,14 <b>take</b> 5:20 23:23 26:10 26:19 27:14 30:21 36:18 43:16 48:21 <b>taken</b> 2:2 27:7 41:14 58:16 <b>takes</b> 28:21 37:4 <b>talk</b> 10:4 <b>talked</b> 42:12 <b>talking</b> 51:14 52:19 52:19 <b>taught</b> 49:4 <b>technological</b> 46:2 <b>technology</b> 46:14 <b>Telephone</b> 3:3 <b>tell</b> 31:23 32:17 49:22 49:23 52:6 <b>tells</b> 31:25 <b>temporary</b> 18:1,5 <b>term</b> 19:10 39:8 <b>terminology</b> 36:21 39:11	<hr/> <b>T</b> <hr/> <b>T</b> 3:18 56:1,1 <b>table</b> 4:11 33:16 47:10,14 <b>take</b> 5:20 23:23 26:10 26:19 27:14 30:21 36:18 43:16 48:21 <b>taken</b> 2:2 27:7 41:14 58:16 <b>takes</b> 28:21 37:4 <b>talk</b> 10:4 <b>talked</b> 42:12 <b>talking</b> 51:14 52:19 52:19 <b>taught</b> 49:4 <b>technological</b> 46:2 <b>technology</b> 46:14 <b>Telephone</b> 3:3 <b>tell</b> 31:23 32:17 49:22 49:23 52:6 <b>tells</b> 31:25 <b>temporary</b> 18:1,5 <b>term</b> 19:10 39:8 <b>terminology</b> 36:21 39:11	<hr/> <b>U</b> <hr/> <b>U</b> 56:1 <b>U.S</b> 3:4,23 58:7 59:8 <b>ultimately</b> 52:11 <b>undergo</b> 11:17 <b>understand</b> 5:14,24 20:8 32:10 39:2 <b>understanding</b> 32:7 <b>United</b> 1:1,7 3:3 13:25 18:16 22:18 22:22 43:25 50:21 57:1,7 <b>Unknown</b> 43:5 <b>updated</b> 46:11,12,22 46:24 47:20 <b>updates</b> 53:9 <b>updating</b> 46:13,16,25 <b>US-born</b> 13:19,23 14:2	<hr/> <b>V</b> <hr/> <b>v</b> 1:4,16 57:4,16 <b>valid</b> 32:18,20 35:10 35:16,20,22 40:7 <b>various</b> 6:21 15:2 49:11 <b>vary</b> 30:23 <b>VEASEY</b> 1:3 3:8 57:3 <b>vendor</b> 8:15,20 <b>verbal</b> 5:21 <b>verify</b> 14:10 <b>versus</b> 20:21 21:3 32:5 <b>veterinarians</b> 8:7 <b>violation</b> 26:7 <b>virtue</b> 29:5,6 <b>visa</b> 18:2 22:23,23 <b>visit</b> 41:13 44:12 <b>visitor</b> 19:6 <b>visual</b> 45:25 46:1,3 <b>visually</b> 45:7 <b>vote</b> 9:23 40:12 <b>voter</b> 39:25 <b>VOTERS</b> 1:9 57:9 <b>voting</b> 9:25
			<hr/> <b>W</b> <hr/> <b>W</b> 56:1 <b>waiver</b> 34:4 41:20 <b>want</b> 18:24 25:7 39:9 <b>wanted</b> 40:13 <b>Washington</b> 3:6 <b>way</b> 5:19 14:23 40:4 40:14 41:25 42:5 51:1 <b>We'll</b> 35:22 54:15

SHERRI ZGABAY

6/9/2014

11

<b>we're</b> 15:23	<b>1:55</b> 43:19	<b>380</b> 3:24 59:9	<b>9</b> 1:23 2:3
<b>we've</b> 42:12	<b>12-31-2014</b> 59:7,10	<b>380-6310</b> 3:11	<b>950</b> 3:5
<b>weapon</b> 20:20 21:13	<b>12548</b> 3:15		
<b>web</b> 37:4	<b>140</b> 33:2	<b>4</b>	
<b>website</b> 4:15 33:19	<b>142</b> 4:10 5:1 33:4,6,7	<b>4-AUSTIN-162600</b>	
34:1,16 36:12 37:24	33:12 47:10	56:14 59:12	
42:8 53:9	<b>143</b> 4:11 34:14,16	<b>40</b> 4:21	
<b>weeks</b> 22:11	<b>144</b> 4:13 36:11	<b>42</b> 4:15	
<b>went</b> 40:5,12	<b>145</b> 4:15 42:7,19	<b>4201</b> 3:10	
<b>weren't</b> 50:23	<b>146</b> 4:16 37:12	<b>424-2420</b> 3:20	
<b>West</b> 2:6	<b>147</b> 4:21 5:1 40:18	<b>43</b> 4:5	
<b>White</b> 43:2,9	51:9,10	<b>45</b> 31:4	
<b>White/Hispanic</b> 43:7	<b>148</b> 51:4,6,8	<b>4589</b> 59:7	
<b>window</b> 37:2,4	<b>16</b> 58:11	<b>46,000</b> 51:22	
<b>witness</b> 2:1 4:6 43:17	<b>18</b> 16:20	<b>463-2197</b> 3:16	
43:21 51:11 52:3,5	<b>180</b> 31:9		
52:7,22 54:14,16	<b>1987</b> 6:12	<b>5</b>	
55:1 58:1,4,5,6		5 4:4	
<b>wondering</b> 52:24	<b>2</b>	<b>512</b> 3:16,20	
<b>work</b> 22:23 45:18	2 36:15,15,15	<b>52</b> 58:11	
<b>worked</b> 6:15	<b>2:05</b> 43:19	<b>530</b> 3:10	
<b>working</b> 6:11 48:17	<b>2:13-cv-193(NGR)</b>	<b>55</b> 4:6	
<b>write</b> 8:8	1:5 57:5	<b>57</b> 4:6	
<b>written</b> 24:12 27:9	<b>2:13-cv-263(NGR)</b>	<b>5805</b> 3:19	
	1:11 57:11		
<b>X</b>	<b>2:21</b> 2:3 54:18	<b>6</b>	
<b>X</b> 24:9	<b>2010</b> 2:6 6:9,9	<b>60</b> 31:3	
<b>Y</b>	<b>2013</b> 21:12	<b>698</b> 4:21 40:20,23,25	
<b>year</b> 40:21	<b>2014</b> 1:23 2:3 13:22	41:18 51:7 53:24	
<b>years</b> 16:19 19:10,11	58:5,8 59:2	<b>7</b>	
20:1	<b>202</b> 3:6	<b>701</b> 3:24 59:9	
<b>YOUNG</b> 1:9 57:9	<b>20530</b> 3:6	<b>7254</b> 3:5	
<b>Z</b>	<b>21</b> 16:19,21	<b>750,000</b> 22:8,13	
<b>Z-g-a-b-a-y</b> 5:11	<b>25</b> 53:16	31:24 32:12,22	
<b>Zgabay</b> 1:22,25 4:3	<b>25-mile</b> 51:23	<b>756,000</b> 22:10	
5:2,9 55:25 56:3,12	<b>281</b> 3:11	<b>77068</b> 3:11	
58:1	<b>3</b>	<b>78-A</b> 42:20	
<b>zip</b> 23:9 32:1,2	<b>300</b> 2:6	<b>78701</b> 3:25 59:9	
<b>0</b>	<b>305-4355</b> 3:6	<b>78711</b> 3:15	
<b>1</b>	<b>33</b> 4:10	<b>78752</b> 3:20	
<b>1</b> 34:24,24 36:14	<b>34</b> 4:11	<b>8</b>	
<b>1:03</b> 2:3	<b>344</b> 59:10	<b>88</b> 37:6	
	<b>36</b> 4:13	<b>9</b>	
	<b>37</b> 4:16		